



South Africa

Country Reports on Human Rights Practices - [2001](#)

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South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the Parliament. The Parliament consists of the National Assembly and the National Council of Provinces. President Thabo Mbeki leads the African National Congress (ANC) party, which holds 266 seats in the 400-seat National Assembly. The Parliament was elected in free and fair elections in 1999; the Parliament, in turn, elected the President. The country continued to consolidate the democratic transformation initiated by the 1994 elections. The Government includes ministers and deputy ministers from the ANC, the Inkatha Freedom Party (IFP), which is the ruling party in KwaZulu-Natal Province, and the Azanian People's Organization (AZAPO), but is dominated by the ANC. In October the New National Party (NNP) formed a coalition with the ANC. The official opposition party in the National Assembly is the Democratic Party (DP) and its smaller Democratic Alliance (DA) partner, the Federal Alliance (FA). The judiciary, including the Constitutional Court, is independent.

The South African Police Service (SAPS) has primary responsibility for internal security, although the Government continues to call on the South African National Defense Force (SANDF) to provide support for the SAPS in internal security situations. The SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and undertrained. The SANDF and the SAPS border control and policing unit share responsibility for external security. The Government continued to train and deploy the new Directorate of Special Operations (DSO), dubbed the Scorpions, to coordinate efforts against organized crime and corruption. The civilian authorities maintain effective control of the security forces. Some members of the security forces committed human rights abuses.

The country has a population of approximately 43,680,000. The economy continues to undergo important fundamental changes as the manufacturing, wholesale and retail trades, transportation and travel services, and communication services continue to grow and the contributions of agricultural and mining sectors to the economy decline. The gross domestic product (GDP) of the country is \$130 billion (887,795,000 billion Rands) and the per capita GDP is \$3,023 (20,646 Rands). Although agriculture and mining account for relatively small shares of GDP (approximately 4 and 6 percent respectively), they are important sources of foreign exchange. Manufacturing accounts for 24.8 percent and services for 48 percent of GDP. During the last 50 years, the economy has been characterized by strong state involvement in a number of industries. The Government has made privatization and restructuring a key part of its economic policy. The debate over restructuring of state assets continued during the year. Since the end of the apartheid era, investors have used the country as a base of operations for doing business throughout southern Africa. Tariff reductions, the partial removal of exchange controls, competition policy, and disciplined monetary and fiscal policies have succeeded in making firms more competitive on world markets, in reducing inflation, and in instilling discipline in public sector spending. Real GDP growth has remained at approximately 3 percent. The distribution of income and wealth remained highly skewed along racial lines and between urban and rural citizens. Official unemployment remained very high at approximately 26 percent, although some statistics indicated that it was higher. More than one-third of employed persons work outside of the formal economy. The country suffers from a significant shortage in skilled workers, and many black citizens are poorly educated and ill-equipped to function in an increasingly globalized economy. The numerous social and economic problems that the country faces today, many of which originated during the apartheid era, persist.

The Government generally respected the human rights of its citizens; however, although there were improvements in a few areas, numerous problems remained in several areas. Some members of the security forces committed killings due to use of excessive force, and there also were deaths in police custody. In addition to killings by security forces, there were an estimated 44 politically motivated or extrajudicial killings

during the first 6 months of the year. The Government took action to investigate and punish some of those involved and to prevent future abuses. Political violence remained a problem; however, it was reduced from 2000 levels, especially in KwaZulu-Natal. Some members of the security forces were responsible for torture, excessive use of force during arrest, and other physical abuse. Some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. The Government took action to investigate and punish some of those involved and committed itself to curbing future abuses. Prisons are seriously overcrowded, and prison employees and other prisoners abused prisoners. There were occasional reports of attacks on persons accused of witchcraft by their rural communities. Gang violence continued to be a serious problem in the Western Cape, and vigilante violence and mob justice increased throughout the country during the year. The judiciary is overburdened, and lengthy delays in trials and prolonged pretrial detention are problems. The Government generally respects citizens' privacy; however, the Cabinet passed the Interception and Monitoring Bill, which provides for state monitoring of all telecommunications. Legislation still in force from the apartheid era poses a potential threat to the independence of the media, and self-censorship exists. Police forcibly dispersed a demonstration during the year. Violence against women and children remained a serious problem, while discrimination against women and persons with disabilities also remained problems. Xenophobia continues to be a problem, and there were a number of violent attacks on foreigners, including refugees and asylum seekers. Child labor, including forced child labor, is a problem, and trafficking in persons is a problem.

The Truth and Reconciliation Commission (TRC), created to investigate apartheid-era human rights abuses, makes recommendations for reparations for victims, and grants amnesty for full disclosure of politically motivated crimes, continued its work on a large backlog of amnesty and restitution applications. The activities of the amnesty committee of the TRC concluded at the end of June.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of The Person, Including Freedom From

a. Arbitrary or Unlawful Deprivation of Life

Police use of lethal force during apprehensions resulted in numerous deaths, and deaths in police custody also remained a problem. The Government took action to investigate and punish some of those involved and to prevent future abuses. The Government's Independent Complaints Directorate (ICD) investigates deaths in police custody and deaths as a result of police action. The ICD reported 387 deaths as a result of police action in the first 8 months of the year, including 137 that occurred while in police custody. These figures represent a decrease in the monthly rate of deaths as a result of police action, compared with the 511 deaths as a result of police action that occurred in the last 8 months of 2000. The ICD's report lists subcategories under deaths in police custody, which include natural causes, suicide, injuries in custody, injuries prior to custody, and possible negligence. The Government's cooperation with the ICD was poor. Unlike in the previous year, racial tensions in the military did not result in any killings.

On January 24, Thokozani Nhlapho was shot and killed by members of a SAPS dog unit in Newcastle, KwaZulu-Natal Province. Police reported that Nhlapho was part of an unruly mob, members of which were throwing stones and bottles at members of the unit as they attempted to arrest another man in the neighborhood. They reportedly returned fire after Nhlapho shot at them; however, a preliminary investigation by the ICD indicated that Nhlapho was unarmed when he was killed. On February 9, three police officers were arrested; one of the police officers was released after questioning. The case was pending before the High Court in Kwazulu-Natal at year's end.

On March 2, a police captain shot three times and killed Makawe Makiti in Kabalskraal, near Cape Town. The captain reported that he mistook the victim for an escaped prisoner who was attempting to flee from a farmhouse that the police had surrounded. It was unclear whether the captain was suspended after the shooting, and the ICD was investigating the case at year's end.

On March 3, a woman died from injuries sustained during shooting between the police and residents in Avilla Park (see Section 1.c.).

In July 2000, SAPS members who claimed they were searching homes for illegal weapons shot and killed an ANC Member of Parliament (M.P.), Bheki Mkhize, in his parents' home in Mahlabathini, KwaZulu-Natal. There was no indication that the officers had a warrant or that they attempted to search other homes in the area. Three officers were charged in the killing. In September one of the officers was convicted for murder and sentenced to 25 years in prison; the other two officers were acquitted.

In April 2000, police in Barkly East, Eastern Cape Province, arrested six teenagers for a local burglary. In the course of the arrest, they dragged two of the boys behind their police vehicle, killing a 14-year-old boy. Three police officers were charged with murder, assault and related crimes; their trials were postponed until 2002. The police officers were released on bail and suspended from duty pending their trials.

During the year, the TRC continued to consider amnesty applications involving apartheid era violence and killings; however, all applications were completed in June (see Section 4). Former apartheid security police colonel, Eugene de Kock, was granted amnesty for a variety of apartheid atrocities, including murder, conspiracy, defeating the ends of justice, and contravening the Arms and Ammunition Act. He was pardoned for: The abduction and murder of Jameson Mngomezulu; the murders of KP Shabangu, Thabo Mohale, and Derik Mashobane; the death of Xolile Samson; being an accessory in the killing of Johannes Sambo; and for supplying weapons to the IFP. In April and May, De Kock was granted amnesty for a variety of crimes during the apartheid regime; at year's end, De Kock was serving a sentence of life in prison for committing crimes for which he did not receive amnesty.

The application for amnesty by Ferdie Barnard of the Civil Cooperation Bureau was denied during the year.

The trial of Dr. Wouter Basson was ongoing at year's end (see Section 4). Basson was the head of the chemical warfare program under the former apartheid regime, and he was charged with 46 counts, including murder, fraud, and narcotics trafficking; 15 of the original 61 charges for acts committed outside of the country were dropped. During his trial, it was revealed that the former apartheid regime was involved in the murders of hundreds of members of the Namibian Liberation Movement between 1980 and 1987. The trial was ongoing and expected to continue into February 2002.

Racial tensions in the military between white commanding officers and their black subordinates continued; however, unlike in the previous year, such tensions did not result in any killings. In 2000 a black platoon commander murdered his white company commander at an army base near Phalaborwa; at the beginning of the year, he was sentenced to 15 years in prison. No further action was taken in the 2000 case in which a black navy seaman shot and killed his white commanding officer at Simons Town naval base and then committed suicide, or in the 1999 case in which a black lieutenant killed six white officers at an army base in Tempe before he was shot and killed. In 1999 the Ministry of Defense announced the formation of a commission of inquiry into the shootings and into racism within the SANDF in general. The report was scheduled for release in October; however, there was no further information available at year's end. Investigations into these killings were ongoing, but the Defense Minister stated publicly that racism was likely a motivating factor in the cases.

The South Africa Institute for Race Relations (SAIRR), a nongovernmental organization (NGO) concerned with political and extrajudicial killings, reported 44 politically motivated killings during the first 6 months of the year, compared with 90 for the same period in 2000 and 175 in 1999. Of the 44 incidents, 29 took place in KwaZulu-Natal.

In April two members of the Zulu royal family, Prince Sikhumbuzo Zulu and Prince Bongani Cril Zulu, were kidnapped and killed. Some observers believed that the killings were politically motivated; however, the motivation remained unknown at year's end. Some observers noted the growing dissatisfaction among some persons in KwaNongoma about the perceived relationship between the ANC and royal family as a possible motivation. There were no arrests in the case by year's end.

In 1999 prominent Zulu leader and ANC member Prince Cyril Zulu was killed. The motivation for the killing was not known. Four men were arrested in connection with the case; in July two of the four were convicted in the unrelated killing of another ANC member.

There were continuing reports of politically motivated murders between the United Democratic Movement (UDM) and the ANC in Western Cape, but it was uncertain whether politics or general crime was the true motivating factor. In September, three men shot and killed Nzomtu Tutuka, a UDM branch leader, at his front door in an informal settlement area. Later the same day, Sydney Mnukwa, an ANC member and a taxi owner, was shot in the chest and killed in Philippi. It was unknown whether the killing was politically motivated. There was no further information available on the case at year's end.

In 1999 seven persons were arrested for the 1999 killing of the general secretary of the UDM, Sifiso Nkabinde; 5 persons were arrested for a retaliatory attack after the killing, in which 11 persons associated with the ANC were killed and several others were injured. In 2000 seven suspects in the Nkabinde killing went on trial, and five were convicted. In August the 5 suspects arrested for the retaliatory attack were found guilty; 3 of the 5 men were sentenced to 11 life terms in prison. The 2 other men were sentenced to 15 years in prison for each of the 11 murders, and an additional 5 years for attempted murder.

There was no further action on the March 1999 killing in Cape Town of one ANC member and four UDM members.

In September the provincial cabinet secretary for safety and security began an investigation into the killings of 13 UDM members since 1998, primarily in the Cape Flats areas of Nyanga and Philippi. Observers in those areas believed that tensions between the ANC and the UDM increased after the mid-year defection of 46 UDM members to the ANC.

A peace process continued between the IFP and the ANC, the two parties most closely associated with the political violence in KwaZulu-Natal. In 1999 a special bilateral IFP-ANC Peace Committee signed a provincial code of conduct for peace, which remained in effect during the year; however, the committee established to enforce the provincial code of conduct continued to receive complaints regarding the intimidation of party members, primarily in rural areas. Although violence in KwaZulu-Natal remained higher than in other provinces, resulting in dozens of deaths during the year, there was a higher level of overall tolerance attributable to the IFP-ANC peace process, as well as an increased police presence. Isolated rural areas in KwaZulu-Natal that previously experienced violence remained tense at times; however, the overall level of violence continued to decrease. There continued to be killings as a result of the factional and intraparty rivalry in the Nongoma area, and authorities had limited success in solving three related killings. A Public Order Policing Unit dispatched from elsewhere in the province was moderately effective in calming tensions, but investigations continued to be handled by local authorities. Mandeni, KwaZulu-Natal Province, was another area that remained tense during the year as a result of lingering ANC/IFP as well as intra-IFP political rivalry. There are several theories to explain the violence in KwaZulu-Natal, including a legacy of "warlordism" that fuels interparty conflict, and the actions of criminal elements involved in a Mafia-like illegal trade in drugs, arms, and wildlife. Some observers have blamed an undefined "third force," which allegedly combines criminal and conservative elements determined to undermine the new political order; however, fewer observers supported this view during the year. Observers noted that the fact that the province was not demilitarized and disarmed promoted the area's violence.

Violence in Richmond continued to decrease during the year.

During the 2000 local elections in an area near Johannesburg, there were reports that five persons were killed; in December 2000, nine suspects were arrested and eight were charged with the killings. There was no further information available on the additional person who was arrested but never charged. It was not known if the killings were politically motivated; however, they occurred near a polling place in an area with a history of interparty violence. Three of the eight suspects were charged with murder; they were denied bail and held in pretrial detention. Charges against two suspects were dropped; the other three suspects were charged with reckless endangerment while using a weapon and were released on bail. The trial was scheduled to begin on November 5. No additional information was available on the case at year's end.

In 2000 the mayor of Nongoma, Joseph Sikhonde, was killed. Six suspects were charged with the murder, but they were acquitted on July 31. On October 25, police arrested one suspect who had served as a state witness in the trial on charges of obstructing the cause of justice and fraud for offering false testimony during the trial. There was no further information available on the case at year's end.

Taxi drivers in crime-ridden neighborhoods were responsible for a continuing series of attacks on rivals. Conflict between drivers representing taxi companies led to gun battles and other street violence and resulted in the deaths and injuries of bystanders. Taxi violence continued to be prevalent in KwaZulu-Natal. For example, on March 30, a prominent taxi boss, Thula Maxwell Sithole, and his wife were killed in a drive-by shooting by gunmen in KwaZulu-Natal.

Between January and April, more than 20 persons reportedly were killed in violence between 2 warring factions, the Durban Long Distance Taxi Association and the Durban Taxi Owners' Association. During the year in KwaZulu-Natal, four taxi ranks, which are places designated by the municipality as a pick-up and drop-off point for taxis, temporarily were closed as a result of escalating violence between two factions. On August 12, near Zinkwali Beach, KwaZulu-Natal, 8-year-old Lungile Zikalala was killed, and her mother and sister were injured seriously after a gunman in a passing vehicle shot at the taxi in which they were traveling. A taxi driver, Musa Zondi, was killed in a similar attack a short time later near KwaDukuza, KwaZulu-Natal. On August 15, near Mahlabathini, KwaZulu-Natal, Mxwayiseli Ntuli, a taxi driver from the Durban Long Distance Taxi Owners' Association and a passenger were killed after another passenger in their vehicle shot them. Investigations into the three incidents were ongoing at year's end.

On July 5, Sithembiso Owen Shona confessed that he was a hitman for the KwaZulu-Natal Long Distance Taxi Association and pleaded guilty to four counts of murder and three charges of attempted murder for attacks carried out in Umlazi, KwaZulu-Natal, in 2000. In August the Durban High Court sentenced Shona to four life

terms and an additional 60 years in prison.

In September renewed conflict broke out on popular routes near the northern Cape Town suburbs of Bellville and Kraaifontein after several months of relative peace in the local taxi industry. Three persons were killed, including a 7-year-old girl, in the attacks; a total of seven murders and attempted murder cases were under investigation at year's end. Following these events the local Road Transportation Board began mediating negotiations between Convention for a Democratic Taxi Association (CODETA) and Cape Amalgamated Taxi Association (CATA). On September 19, CODETA and CATA agreed on a peace accord in which the parties would return to their previous routes. The unrest had started after the parties began to encroach on each other's territory.

Unlike in the previous year, there was no new violence between taxi owners and Golden Arrow bus drivers in Western Cape. In early October, charges of murder were dropped against seven persons in connection with taxi violence against Golden Arrow in 2000 because the charge sheets were incomplete. In December 2000, Bandile Immanuel Botya was sentenced to three life sentences and 75 years in prison after he admitted to being paid to carry out the attacks on Golden Arrow buses in 2000.

In the first half of the year, more than 30 deaths occurred in the Eastern Cape on routes around Umtata. On September 16, seven persons were killed near Mount Frere in Eastern Cape Province, including two taxi owners returning from a taxi association national peace conference in Durban, after passengers of two vehicles following the convoy of taxis returning from the conference shot at the convoy. A driver of one of the vehicles from which gunfire was initiated was shot and killed in the exchange. No other suspects were identified by year's end. In July the Uncedo Service Taxi Association and the Umtata Taxi Owners' Association agreed on a peace accord; however, no further information was available on the accord at year's end.

There was no further information available on action by the South African Taxi Council or the Taxi Cooperatives Project during the year.

Vigilante action and mob justice increased throughout the country during the year. The Institute for Security Studies (ISS) reported an increase in vigilante action since 1996 as a result of police inefficiency and the perception that the courts fail to deliver justice. The ISS also reported an increase in mob justice, although no figures were available by year's end. The SAIRR reported that gang violence was worsening in the Cape Flats areas around Cape Town and elsewhere in the Western Cape; however, there were fewer incidents in the province than in the period prior to late 2000.

A vigilante group called Mapogo A Mathamaga has grown in membership and has opened offices in at least nine cities, including Pretoria. Mapogo A Mathamaga reportedly has more than 90 branches and 50,000 members throughout the country. Mapogo members attacked and tortured suspected criminals and beat persons with clubs and whips. Mapogo targeted persons whom they suspected of property crimes against their members. During the year, the vigilante group continued its activities in various provinces. On January 15, two Mapogo members were charged with murder in connection with the killing of a man whose body allegedly was fed to crocodiles in the Kruger National Park in 2000; the case was ongoing at year's end. In February two Free State members of Mapogo A Mathamaga were charged with assault with intent to cause grievous bodily harm in connection to a case in which a suspect was locked up and assaulted when his house was broken into and robbed. In 2000 two men suspected of stealing tomatoes on a farm near Brits were beaten severely; one of the men died from his injuries. In September the trial began in the Pretoria High Court and was ongoing at year's end. In November 2000, the National Directorate of Public Prosecutions established a unit to investigate more than 200 cases attributed to Mapogo members in the Northern and Mpumalanga provinces, which included the crimes of kidnapping, murder, assault, and intimidation.

In Eastern Cape, the Umfela Ndwonye group killed and attacked suspected criminals in instances of vigilante violence. People Against Drugs and Violence (PADAV), the Eastern Cape counterpart to People Against Gangsters and Drugs (PAGAD) in the Cape Town area, clashed with gangsters in and around northern areas (Nelson Mandela Metropole) in Port Elizabeth. In late August, the Organized Crime Unit arrested 12 PADAV members for a series of crimes committed between September 2000 and July. The charges included kidnapping, assault, intimidation, arson, and malicious damage to property.

In the Western Cape, the activities of PAGAD were curtailed severely by a successful law enforcement and prosecutorial effort against leading members of the organization for crimes linked to urban bombings and murder. PAGAD is an Islamic-oriented, community-based organization with a mandate calling for stronger action against crime and drugs. PAGAD was suspected of acts of intimidation and violence against drug dealers, gang leaders, and critics of its violent vigilantism. In September 2000, a PAGAD G-force (murder squad) member testified in court that in January 2000, he had been ordered by PAGAD leadership to attack a gang stronghold and kill gang members and drug dealers. The Minister of Justice and the Minister of Safety

and Security publicly charged that PAGAD G-force cells and members of Qibla, an Islamic-based political organization whose membership may share affiliation with PAGAD, were responsible for urban terror incidents in 2000, including: Nine bombings that caused serious injuries but no deaths (see Section 1.c.); the murder of a police captain who had been investigating PAGAD; the murder of Magistrate Piet Theron; and the attempted murder of Magistrate Wilma Van der Merwe (both presiding over PAGAD-linked trials). There have been no incidents of urban terror since late 2000.

Court cases involving PAGAD continued throughout the year. By October there were more than 500 cases under investigation against suspected members of PAGAD, with 81 trials pending based on hundreds of charges. The charges included: 47 charges for murder; 56 for attempted murder; 1 for possession of explosives; 11 for possession of an unlicensed firearm; 13 for armed robbery; and 2 for conspiracy to commit murder. Seventy suspected PAGAD members were arrested, and 9 were released on bail by year's end; bail was denied in as many as 40 cases. The Muslim community has protested the infrequent availability of bail and staged periodic small-scale protests, criticizing the treatment as unfair compared with the judicial treatment of non-Muslims (see Sections 2.c. and 5). There were three sets of murder trials pending at year's end: Ebrahim Jeneker, Abdulla Maansdorp, and Ismail Maansdorp; Moegamat Zain Cornelison and Anees Adams; and Moegamat Isaacs. The case against Cornelison and Adams was postponed until February 2002. In August 2000, Ebrahim Jeneker and Ismail Edwards, alleged PAGAD members, were charged with the killing of a police captain who had been investigating PAGAD; the trial was pending at year's end. On October 4, seven PAGAD members, including Jeneker and the Maansdorps, escaped from detention at the Cape High Court; Jeneker, the Maansdorps, and one other escapee were recaptured quickly. Two of the other detainees who escaped were recaptured the following month. At year's end, one suspect remained at large. The trial was ongoing at year's end.

There have been 51 convictions of PAGAD members since 1998. On September 18, Faizel Waggie and Ismael Edwards were convicted for the bombing of a Landsdowne Police station in 1998; this was the first conviction directly related to a specific bombing incident that involved PAGAD. On October 17, Waggie and Edwards were sentenced to 30 years in prison: 15 for the bombing and 15 for three counts of attempted murder.

There were several acquittals of PAGAD suspects during the year. On July 27, Anwar Francis and Yusuf Salie were acquitted for the 1998 pipe bomb explosion that occurred in a vehicle in which they were traveling and killed two other passengers. In September Rieduwaan Hendricks, Imam Moegsien Barendse, and Fariel Mohammed were acquitted of charges related to the 1998 bombing of a synagogue in Wynberg.

There were instances of murder and intimidation of witnesses who were testifying against PAGAD; a total of eight witnesses (five named, three unnamed) were shot and killed during the year. On April 8, Mogamat Zaid Abrahams was killed after he voluntarily left the witness protection program to attend a wedding. Other witnesses who were killed during the year included Ebrahim Gollie and Ashrat Saban, who were scheduled to testify in trials involving six PAGAD members detained after arms and explosives were discovered in their vehicles. Abrahams was scheduled to testify in May in a murder trial of four PAGAD members, including PAGAD chief Abdus-Salam Ebrahim. Three potential witnesses against Dawood Osman for murder, attempted murder, and possession of a stolen cell phone, also were killed in May 1998 and January 1999. Yusuf and Fahieman Enous, who were scheduled to testify in the Keg and Swann bombing attempt in Durbanville in 2000, were murdered in 1999. A suspect in their murder was arrested in 2000.

The trial for the 1996 lynching of drug dealer and Hard Livings gang leader Rashied Staggy was ongoing at year's end (see Section 2.a.). The suspects on trial included: Abdus-Salam Ebrahim, the national coordinator of PAGAD; and Salie Abader and Nadthmie Edries, current and former security chiefs of PAGAD. On December 12, the Government dropped charges against Edries. The trial was scheduled to begin in February 2002.

Murders of farm families in rural parts of the country continued to receive considerable media attention, but data on numbers of attacks have not been available since the SAPS declared an embargo on crime statistics in July 2000. There was widespread concern among white farmers that they were targeted for racial and political reasons; however, according to police and academic studies of farm attacks, the perpetrators reportedly were common criminals motivated by financial gain. It also was reported that in the majority of cases, the perpetrators were not farmworkers. The number of farm attacks and murders doubled over the past 3 years; however, there was a reported decrease during the year. There were 813 farm attacks in 1999 and 905 in 2000. AgriSA reported 639 attacks and 91 killings during the year. There were 144 killings in 1999 and again in 2000. In August Human Rights Watch released a report titled, "Unequal Protection: The State Response to Violent Crime in South African Farms." The report concluded that the Government failed to protect adequately residents of commercial farms from attacks and that black farm residents, especially black women, were most vulnerable to abuse. The Government reportedly established a rural protection plan to coordinate the activities of law enforcement and other relevant actors to address violent crime on farms;

however, no further information was available at year's end.

There were incidents of abuse and killings of black farm laborers by their white employers. NGO's claim that rural police and courts refuse to arrest or prosecute whites in many cases (see Sections 1.c. and 4). On June 11, the South African Human Rights Commission (SAHRC) launched an inquiry into the human rights situation in farming communities. The purpose of the inquiry was to examine civil and political rights, economic and social rights, and land rights and the issue of tenancy. Research for the inquiry was ongoing at year's end. In 2000 the SAHRC launched an investigation into allegations of abuse of black farmworkers, local justice system prejudice against farmworkers, and violence against white farm owners. The SAHRC report was not released by year's end.

In May a black teenager was beaten to death near the northern town of Pietersburg in an attack that appeared to be racially motivated. On March 27 and 29, police arrested a total of nine white men for the killing. On April 5, a court was forced to reschedule the bail hearing for the defendants after an angry crowd of approximately 1,000 black protesters disrupted it. In April bail applications were denied for all of the defendants; however, between May 21 and June 21, bail was granted for seven and denied for two of the defendants. The trial was scheduled to begin in January 2002.

In the Northern Province, where traditional beliefs regarding witchcraft remain strong, there were occasional reports of attacks on persons accused of witchcraft by their rural communities. Some survivors of attacks and their families were driven from their villages and were living in "witch villages" for safety. The Ministry of Safety and Security, with the assistance of the quasi-governmental Commission on Gender Equality, and traditional leaders instituted programs to end violence against suspected practitioners of witchcraft. Traditional leaders cooperated with the programs and reported threats against persons suspected of witchcraft to the police.

Occasional witchcraft-related incidents occurred during the year. On September 18, four women and one man were sentenced to life imprisonment for killing a 74-year-old man whom they accused of witchcraft. The court sentenced the five defendants to an additional 5 years in prison on witchcraft-related charges. In November and December, the Commission on Gender Equality and the Department of Justice conducted a successful program to address witchcraft in the Northern Province.

In 2000 two guards were shot to death in Cape Town in what police believe was a strike-related attack. The investigation was continuing at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

In April two members of the Zulu royal family were kidnaped and killed (see Section 1.a.). Some observers believed that the killings were politically motivated; however, the motivation remained unknown at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution's Bill of Rights prohibits such practices and provides for the right to be free from all forms of violence from either public or private sources; however, some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. Some incidents of torture and ill-treatment by the police and SANDF occurred during interrogation, arrest, detention, and searches of persons' homes. The ICD reported 27 cases of torture and 18 cases of rape perpetrated by security forces between April 2000 and March; the Government investigated these allegations and prosecuted some offenders.

On March 3, six civilians were injured in Avilla Park in Vredendal, Western Cape Province, during a shooting between residents and police engaged in a crime prevention drive. Residents began to throw stones at the police after they witnessed a SAPS officer assault an elderly man. The police responded by firing at the residents, and shots also were fired at police officers. One person was shot in the spine, and another woman died of her injuries in the hospital 3 days after the incident. No arrests were made, and an investigation was ongoing at year's end.

On September 23, in Pretoria, officers from the Pretoria SAPS dog unit reportedly used their dogs to attack two Mozambican immigrants, Charles Ndlovu and Stanley Dluwayo. After the attack, the victims were treated at the local hospital for bite wounds on their hands and feet. In November the Pretoria High Court convicted for aggravated assault four white police officers; the officers were sentenced to between 4 and 5 years each. Two other police officers pleaded not guilty to the charges, and their trials were pending at year's end.

Incidents of police harassment and attacks against foreigners continued at the same level as in 2000, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused treatment to indigent foreigners, despite regulations that required such treatment.

There were reports of police abuse of detainees awaiting deportation (see Section 2.d.). In 2000 after a 2-year investigation, the SAHRC released a report assessing conditions at the Lindela Repatriation Center, the largest detention facility for undocumented immigrants in the country (see Section 1.d.). The report described abuses against detainees, which included long detentions, poor living conditions, xenophobia, abuse, corruption by officials, and sexual abuse of women. The SAHRC reported that the Department of Home Affairs failed to respond to the Commission's recommendations. However, the Department of Home Affairs implemented some changes, and there was some improvement in the conditions during the year. The contractor operating the facility responded positively to most of the SAHRC's recommendations and improved conditions; however, problems remained, particularly as a result of occasional overcrowding after Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela to await repatriation. It was unknown whether Home Affairs officials continued to assault detainees and subject them to degrading treatment during the year. In 2000 approximately 300 refugees demonstrated in front of the Department of Home Affairs to protest the Government's refusal to process asylum applications for those applicants without certain documents. Some of the refugees alleged that Home Affairs employees assaulted them and requested bribes. The SAHRC sued the Department of Home Affairs to compel the processing of all applications by asylum seekers as required by the Refugees Act; the case was pending at year's end (see Sections 1.d. and 2.d.).

On two occasions during the year, police used excessive force to disperse demonstrations and strikers (see Sections 2.b. and 6.a.).

In 2000 a video filmed in 1998 was broadcast on national television showing six white police officers beating and torturing three black illegal immigrants with vicious dogs while they yelled racial insults. In January 2000 the officers were arrested and charged with assault and attempted murder and suspended from duty. Three of the six accused officers resigned from the police force after the report was televised. On November 11, the Pretoria High Court convicted four of the officers of several charges, including assault with intent to do grievous bodily harm. Several similar cases were reported to the ICD after the broadcast of the video. For example, in 2000 police from the North Rand Dog Unit reportedly took seven Mozambican immigrants to a deserted field near Springs, ordered them out of the police vehicle, and attacked them with police dogs. After they received medical treatment and were detained for several days in a police jail, the victims were taken to the Lindela Repatriation Center and returned to Mozambique. Another Mozambican immigrant reported that a similar incident took place in 2000 in the West Rand area. The Government still was investigating the cases at year's end.

The Government made efforts to address abuses with an official antitorture policy and training programs for police and SANDF officers. Broad efforts to reform police practices continued to reduce the number of abuses, and the ICD investigated reports of police misconduct and corruption (see Section 1.a.). The ICD reported 36 cases of corruption and 1,707 incidents of SAPS misconduct, including assault, neglecting duty, or performance of duty in an improper manner. In 1999 the SAPS Training Division initiated a human rights program; by September 30, more than 27,000 of the estimated 90,000 targeted officers completed training. The largest number of officers were trained in the Western Cape Province, and officials credited the training with an increase in police disciplinary actions in the province. Another police training initiative, developed by a group of human rights NGO's and the SAPS, focused on the protection of refugees and foreign nationals.

The SAPS continued to undergo sweeping, mostly positive changes, including the institution of reforms designed to create partnerships between local police forces and the communities that they serve, and the establishment of metropolitan police forces in major cities with local control. Resignations and retirements of senior police officials have permitted the infusion of new personnel at senior levels from both inside and outside the SAPS; these appointments also have promoted affirmative action within the SAPS. However, the SAPS continued to have deficiencies in midlevel leadership and institutional memory that were harmful to its overall performance. The SAPS continued to be ill-equipped, overworked, and undertrained.

There was a continuing decline in the number of attacks and killings between ANC and IFP members in the province of KwaZulu Natal (see Section 1.a.).

In September ANC councillor Wandile Nkwele was shot in the face and injured seriously by a person who reportedly was stalking him in Philippi, Western Cape.

Between 1996 and September 2000, there were a total of 189 bomb attacks in the Western Cape. In 2000 there were nine pipe and car bomb explosions in Cape Town (see Section 1.a.). There was one fire bomb

attack during the year (see Section 2.c.).

There were incidents of abuse of black farm laborers by their white employers, and NGO's claimed that rural police and courts refused to arrest whites in many incidents (see Section 1.a.).

There were a few illegal strikes that resulted in some worker violence, in particular incidents of intimidation and threats of violence by striking workers against nonstriking and replacement workers (see Section 6.a.). In December 2000, during a legal strike of security guards, strikers used intimidation and violence against nonstriking and replacement guards and also against journalists covering the strike. Nonstriking security guards were harassed by groups of strikers while taking public transportation; the groups stripped them, forced them to lay down in the dirt, and beat them. In December 2000, two guards were shot to death in Cape Town in what police believe was a strike-related attack. Police were investigating the cases at year's end.

Conflict between warring taxi companies led to gun battles and other street violence and resulted in the deaths and injuries of bystanders (see Section 1.a.).

On March 1, students participating in a protest march in central Johannesburg attacked and robbed bystanders, motorists, and journalists. Police officers were present but reportedly did not take action to stop the violence. There were minor injuries reported.

Vigilante action and mob justice resulted in attacks on suspected criminals and drug dealers, some of whom were tortured (see Section 1.a.).

Xenophobia continued to worsen during the year. Xenophobia was expressed in institutional and social interactions with foreigners, particularly those from other African countries. There were a number of violent attacks on foreigners, including refugees and asylum seekers (see Section 2.d.). Many of those attacked were hawkers and street vendors.

In 2000 three suspects were arrested for a series of bombings in January 1997, including one in a mosque in Rustenburg that injured two persons. In 2000 two of the three accused were sentenced to 19 years' imprisonment each, and the third was sentenced to 16 years' imprisonment (see Section 5).

Prisons do not meet international standards, and prison conditions do not always meet the country's minimum legal requirements. Food, especially for prisoners with HIV/AIDS and other medical problems, frequently is of poor quality and insufficient quantity. NGO's reported that prison employees steal food from prisoners. Although prisoners generally have access to health care, prison officials sometimes withheld prescribed treatment as punishment. Severe overcrowding in some prisons led to poor health; as many as 75 inmates may occupy a cell designed to hold 40 inmates. The Department of Correctional Services (DCS), which manages prisons, reported that in September there were 165,000 prisoners in facilities designed to hold only 105,000. Prisoners often are required to sleep in shifts because of a lack of space. Overcrowding is cited as the main reason for the high rate of HIV/AIDS infection in prisons and a reported increase of more than 300 percent in deaths among inmates. Concerns have been raised over the potential threat to thousands of juvenile offenders. In the first 7 months of the year, 1,101 inmates died of HIV/AIDS, with the rate of infection among prisoners increasing by 36 percent over the same period in 2000. Prison employees and other prisoners abused prisoners, including physically and sexually assaulting them. Press reports indicated that some detainees awaiting trial contracted HIV/AIDS through rape. Male and female prisoners are held separately; however, female prison wards often are on the same grounds as male wards, and Amnesty International reported that prisoners raped women. Pretrial detainees are not held separately from convicted prisoners.

Juveniles between the ages of 14 and 18 accused of serious crimes, including murder or rape, sometimes are placed in pretrial detention in prisons with adult offenders (see Section 5). DCS statistics from September documented that there were 29,873 youth offenders (prisoners under age 21), 3,556 of whom were 17 years of age or younger. Juveniles normally are not housed with adults; however, in April 320 juveniles under 18 years of age awaiting trial were transferred to secure care centers after it was discovered that they were detained with adult prisoners at Pollsmoor Prison near Cape Town. A similar transfer took place in 2000. There were credible reports that youths from juvenile wards were sold to adult prisoners for sexual exploitation, including rape.

C-MAX prisons are designed to hold the country's most dangerous criminals. Human rights groups have raised serious concerns regarding C-MAX facilities, including the Government's criteria for transferring prisoners from other prisons to a C-MAX facility and the restrictive, solitary conditions of the prisons. No additional C-MAX prisons were opened by year's end, but a new prison based on the C-MAX model was under construction and

scheduled to begin operations in January 2002.

Parliament passed legislation in 1998 to restructure the prison service and bring prison law in line with the Constitution. Sections of the Correctional Services Act on parole board policy were not implemented by year's end. The parole boards still are staffed by lower ranking DCS employees; NGO's have attributed the low number of parole decisions and an exacerbation of the overcrowding conditions in prisons to this.

A Judicial Inspectorate for prisons began operations during 1999, and a number of official civilian prison visitors were approved throughout the country. Visits were conducted during the year; however, most of the official civilian prison visitors were not trained in legal matters. Those who received some training from NGO's generally were more successful in encouraging compliance with regulations on inmate treatment.

The Government generally permits independent monitoring of prison conditions, including visits by human rights organizations; however, only those organizations that are able to send legal practitioners are allowed to visit prisons. Other prisoners' rights organizations routinely are denied access.

d. Arbitrary Arrest, Detention, or Exile

The Bill of Rights prohibits detention without trial, and the Government generally respects this right in practice. It also provides that every detained person has the right to be informed promptly of the reasons for the detention; to be advised promptly of the right to remain silent and the consequences of waiving that right; to be charged within 48 hours of arrest; to be detained in conditions of human dignity; to consult with legal counsel at every stage of the legal process; to communicate with relatives, medical practitioners, and religious counselors; and to be released (with or without bail) unless the interests of justice require otherwise. Courts and police generally respected these rights; however, there was a continuing problem with bringing detainees to trial expeditiously.

According to the SAHRC, prisoners wait an average of 6 months to be tried in the regional courts and 6 months to 1 year in the high courts; however, in extreme cases detention may extend up to 2 years. This problem primarily is the result of an understaffed, underfunded, and overburdened judiciary (both magistrates and prosecutors), with more cases than can be handled efficiently (see Section 1.e.). On June 5, the Government initiated an electronic system pilot project called the Court Process Project, which is designed to control criminal cases in a more structured way, from the police stations where they originate through the adjudication process until the convicted person is handed over to the relevant prison or welfare/health authorities. This process includes electronically storing the fingerprints and picture of the accused, which assists authorities in minimizing the incidence of mistaken identity or deliberate identity switching by detainees, thereby limiting the chances of escape. The system also was designed to prevent docket thefts and to curtail the activities of corrupt police and court officials.

Human rights groups, judges, and judicial scholars have expressed concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases, thus raising concerns about judicial independence and civil liberties.

There were reports that authorities abused detainees awaiting deportation. Under the provisions of the law, an illegal immigrant may be detained for 48 hours pending the determination of his or her status. A person declared illegally in the country may be detained for an additional 30 days pending his or her removal from the country. In practice persons may be held in detention for several days before being declared as an illegal immigrant or released, and those declared as illegal regularly are held for more than 30 days. In 2000 the SAHRC reported that immigrants in Lindela Repatriation Center experienced long detentions and abuse (see Section 1.e.). In 1999 the SAHRC sued the Department of Home Affairs for the release of 40 individuals challenging the lawfulness of their lengthy detentions at Lindela. Despite the court ruling in favor of the SAHRC, continued detention in excess of 30 days remains widespread at Lindela (see Sections 1.c. and 2.d.).

There were no reports of forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent and impartial judiciary subject only to the Constitution and the law, and the Government respects this provision in practice.

Under the Constitution, the Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. Generally magistrates courts and high courts are the courts of original jurisdiction in criminal cases.

Judges and magistrates hear criminal cases. There is a presumption of innocence for criminal defendants. The presiding judge or magistrate determines guilt or innocence. The law requires that a panel of lay assessors hear cases along with a magistrate in cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also are required to use their discretion in using assessors in an advisory capacity in bail applications and sentencing. The Office of the National Director of Public Prosecutions (the so-called super Attorney General) exercises national control over prosecution policy and applies a consistent national policy for the prosecution of offenses. There are nine provincial directors and offices to coordinate and streamline prosecutions.

The Bill of Rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when "substantial injustice would otherwise result." In practice the law functions as intended; however, a general lack of information on the part of accused persons regarding their rights to legal representation and the Government's inability to pay the cost of those services are continuing problems. The Government plans to open 60 legal assistance centers in the country, comprised of the Departments of Justice, Correctional Services, Welfare and Health, along with the SAPS, to speed up the administration of justice, free up the court rolls, and alleviate overcrowding in prisons; 26 centers were established during the year. There were serious backlogs in the numbers of cases that have gone to trial (see Section 1.d.). On February 17, justice officials began a program called Saturday Courts to address the huge backlog of cases in the courts. It was estimated that it would take 2 years for this program to clear the backlog completely. Officials also instituted privately contracted Additional Courts, which operate in specific districts where there are significant backlogs and where space is available in existing courtroom buildings. The Additional Courts use private sector employees or retirees with judicial experience. In November the National Director of Public Prosecutions reported that the Saturday and additional courts had reduced the backlog of cases by 12,000. A total of 13,705 completed cases was reported at year's end.

In March the Minister of Justice and Constitutional Development, Penuell Maduna, announced the appointment of business managers to oversee the overall effective functioning of the courts. This is part of a process of reforming the system of justice delivery.

There was public concern about the capacity of the criminal justice system to deal with the high level of crime. The increasing incidence of vigilante justice reflected this concern (see Section 1.a.).

Some human rights groups expressed concern with laws that provided minimum sentencing guidelines and refusal of bail for certain serious offenses, stating that they harm judicial independence and limit civil liberties. The new bail law was upheld by the Constitutional Court in 1999. In 2000 the South African Law Commission submitted a report to the Minister of Justice on the effects of minimum sentencing laws. The report showed that there remained disparities in the application of the sentencing guidelines, mostly at the regional level. Courts have the authority to depart from the guidelines if "substantial and compelling circumstances" justify it. The National Prosecuting Authority has defended successfully the constitutionality of the minimum sentence legislation in two cases before the Constitutional Court. The Supreme Court has ruled that prescribing certain minimum sentences for specific crimes is constitutional and has provided clear guidelines for interpreting the law on minimum sentencing. However, some human rights groups continued to have concerns about the effects of the minimum sentencing laws. The new laws have contributed to prison overcrowding by imposing an increased number of long-term prison sentences.

The Government and legal bodies have acted to redress historic racial and gender imbalances in the judiciary and the bar. The ranks of judges, magistrates, senior counsels, and attorneys are more reflective of society than in the past, although they still fall far short of a representative composition. The majority of judges of the Constitutional and High Courts remain white and male. Magistrate courts continue to face large caseloads and a shortage of resources.

The Promotion of Equality and Prevention of Unfair Discrimination Act, which entered into force in August, provides for the establishment of Equality Courts within magistrates courts and High Courts to adjudicate complaints. The Equality Courts were not established by year's end; one reason for the delay was that the required training for court officials was not completed.

The activities of the TRC were completed by year's end (see Sections 1.a. and 4). The amnesty committee concluded its activities at the end of June. The committee was finalizing the last two volumes of the final report at year's end, and it was scheduled for completion in March 2002. At year's end, the National Directorate of Public Prosecutions (NDPP) was reviewing all cases that were considered by the TRC to determine which cases to prosecute. The NDPP considered for prosecution only those cases in which amnesty was not granted or those in which the individual did not apply for amnesty.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

During the year, the Department of Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela Repatriation Center to await repatriation (see Section 1.c.).

In 2000 SAPS members who claimed to be searching homes for illegal weapons in Mahlabathini, KwaZulu-Natal, shot and killed Bheki Mkhize, an ANC M.P., in his parents' home; the officers reportedly did not have a warrant to enter the home. On August 30, three officers were charged in the killing. In September one of the officers was convicted of murder and sentenced to 25 years in prison; the other officers were acquitted (see Section 1.a.).

In July the Cabinet passed the Interception and Monitoring Bill which provides for state monitoring of all telecommunications systems, including cell phones, the Internet, and e-mail (see Section 2.a.). The Bill requires an order from a judge in most cases; however, in some cases high-ranking police or army officers are authorized to grant permission. The Bill was submitted to Parliament on August 13 but was not passed by year's end. In 2000 Parliament passed the Promotion of Access to Information Act, and it was implemented in March. Although the purpose of the act was to increase transparency, opposition parties and human rights NGO's objected to a broadly-defined provision that enables the Government to access individuals' personal information.

The Land Claims Court settles cases previously screened and evaluated by the Commission on Restitution of Land Rights. Claims only can be filed for land dispossessions that occurred after the promulgation of the Natives Land Act of 1913, although this does not include dispossessions that occurred in 1913, the year of the Government's most significant land redistribution in favor of whites. The various forms of compensation offered to claimants are the return of the original land, a deed to another piece of land, financial remuneration, or preferential access to government housing. The Commission ceased accepting applications after 1998, but the cases have moved slowly, which has caused increasing tension and frustration and has resulted in some land occupations by squatters. In March the Commission began a process to determine which claims were valid. The process was not completed in most of the provinces by year's end, and the Transvaal Agricultural Union was disputing the process for validating claims that did not meet the requirements of the Restitution Act. The Ministry of Land Affairs is authorized to offer settlements without first going to court, which has expedited the resolution process. As of September 7, 12,675 land restitution claims had been settled. Although the majority of the claims were settled out of court, some were settled by the Land Claims Court. By year's end, 12,863 claims had been settled involving 39,209 households and 217,940 beneficiaries. The Land Claims Court had restored 429,490 acres (173,805 hectares) of land to the rightful owners, and the Minister of Land Affairs had restored 473,844 acres of land. Approximately 55,000 claims remained unresolved at year's end.

In July individual members of the Pan Africanist Congress (PAC), acting on behalf of the African Renaissance Civic Movement (ARCM), organized an illegal occupation of land in Bredell on the East Rand. Members of the ARCM/PAC illegally sold plots to squatters for \$2.50 (25 Rands) per plot, and illegal occupation began on July 1, with an estimated 5,000 squatters residing on the land. On July 10, the Pretoria High Court ordered the squatters to vacate the land within 48 hours; evictions started shortly afterwards, and most occurred peacefully. Churches assisted many persons and provided temporary shelter in nearby township areas. Approximately 110 squatters were detained and charged with illegal land occupation and trespassing. In September the charged trespassers were acquitted, because they believed they legitimately had bought the plots. PAC members allegedly involved in the illegal selling of the plots denied receiving any money for the sales.

There were reports that farm residents were evicted illegally by farmers. Between November 1999 and August 2000, there were hundreds of threatened evictions reported, and at least 125 illegal evictions occurred; however, many evictions were not reported.

There were reports that persons accused of witchcraft were driven from their villages in rural communities (see Sections 1.a. and 5). Traditional leaders in at least three villages in the Northern Province offered unused land to persons accused of witchcraft and their families. The villages have no running water or electricity. Although some persons accused of witchcraft returned to their homes, many persons remained in the villages and requested government assistance for schools and basic infrastructure.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice; however, these rights can be limited by law in some circumstances. Several apartheid-era laws that remain in force pose a potential threat to media independence; the South African National Editors' Forum (SANEF) recommended that between 13 and 15 laws be reviewed. In 2000 the Justice Department agreed to establish a committee with SANEF to review the legislation in question; however, the review did not occur by year's end. In addition the Constitution bans the advocacy of hatred based on race, ethnicity, gender, or religion that constitutes incitement to cause harm. Nevertheless, the press criticizes both the Government and the opposition.

On May 31, the Minister for Safety and Security released crime statistics after he had banned the release of statistics in 2000 on the grounds that they were unreliable. However, government officials continued to question the reliability of crime statistics because of the difficulties experienced by the SAPS in introducing standardized statistics-gathering methods in a consistent manner across the country.

Several laws remain in effect that permit the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws have not been employed often, journalists perceive them to be a threat to constitutional free press rights. The Criminal Procedure Act may be used to compel reporters to reveal their sources. In June 1999, SANEF launched a media campaign to compel changes to legislation that restricts the free flow of information. In July 1999, SANEF and the Government reached an informal agreement to introduce safeguards to prevent the use of the Criminal Procedure Act against journalists; however, in September 1999, the Western Cape Provincial Director of Public Prosecutions decided to invoke a section of the Criminal Procedure Act against two photographers and an editor of Die Burger newspaper in the case of the 1996 lynching of drug lord Rashaad Staggie (see Section 1.a.). In 2000 police officers raided the offices of the South African Broadcasting Corporation (SABC), Reuters, the Associated Press, and the Mail & Guardian newspaper. Police confiscated material for use in the trial of PAGAD national coordinator Abdus-Salaam Ebrahim and three others in the 1996 killing of Staggie. The State prosecutor for the case was replaced after he and a superior were found to have acted improperly in their attempts to obtain from press organizations film footage of the events on the night Staggie was killed. The prosecutor had applied in another country for a court order compelling news agencies to hand over the video without consulting the news agencies' lawyers about the tapes. On July 31, Justice John Foxcroft ruled that the Reuters/AP footage obtained in the other country was not admissible in the trial. The photographers and editor of Die Burger newspaper contested their subpoenas in court under the clauses on media freedom and freedom of speech in the Bill of Rights. In October the Government withdrew the subpoenas, but the subpoenas subsequently were reissued. The journalists continued to refuse to testify and the case was ongoing at year's end. The SANEF continued to lobby unsuccessfully for a formal amendment to the act codifying the terms of the informal agreement.

The Government used both legislative and structural means to encourage greater diversity in the media. The media offer a broad range of news, opinion, and analysis. Coverage of news and expression of opinion is vigorous. High-ranking government officials on occasion have reacted sharply to media criticism of government programs and problems, and have at times accused journalists, particularly black journalists and editors, of disloyalty, and white journalists and editors of racism. Some journalists express concern that the Government would like to control the media. A larger number of journalists believe that the Government's sensitivity to criticism causes self-censorship in the media.

All newspapers are owned by conglomerates. One of the prominent companies, New Africa Media, is a black-owned consortium that controls the country's largest circulated newspaper, The Sowetan, as well as a larger publishing business, Times Media Limited.

Print media reaches only approximately 20 percent of the population. This is due to high levels of illiteracy, the lack of newspapers in rural areas, and the cost of newspapers. The majority of the population receives the news through radio broadcasts from the national broadcaster (SABC) and community radio stations.

A ruling by the Supreme Court in 1998 decreed that journalists who could prove that they had taken all the steps necessary to verify that the information they obtained was genuine and that the articles published as a consequence were reasonable and not negligent would not be liable for defamation. Media freedom advocates noted the ruling as an important change in shifting the burden of proof from the media to the plaintiff.

The government-owned SABC, a limited liability company, continues to own and control the majority of the television and radio outlets. In 2000 the SABC was scheduled to be split into two operational units: a public

broadcasting company and a commercial entity. However, the restructuring did not occur by year's end. The SABC is managed by black executives, provides broadcasting in the country's main African languages, and offers news coverage of the Government and the leading opposition parties. The SABC maintains editorial independence from the Government, although the balance between editorial independence and national interest remains a delicate topic with governmental officials. Critics allege that top officials are chosen for political reasons without regard for media expertise or relevant experience.

The first commercial television station, e-tv, has been broadcasting for more than 3 years. Although e-tv's signal reaches 75 percent of the population, e-tv's share is consistently only approximately 10 percent of viewers. Most of e-tv's schedule consists of newscasts and foreign-produced programs; the Government encouraged e-tv to meet its licensing conditions, which would require programming to include at least 30 percent local content. Majority ownership of e-tv is held by Midi Television, a black-owned consortium composed of a number of associations and syndicates representing workers, women, and persons with disabilities.

In addition to e-TV, the SABC competes with two pay-per-view broadcasters, M-NET (encoded UHF transmissions) and MultiChoice (direct from satellite broadcasts); several commercial radio broadcasters; and a large number of low-power, not-for-profit community radio stations.

Government broadcast regulators have issued more than 100 community radio licenses since 1994; many of the more than 80 stations operating continue to experience financing and personnel problems. Nevertheless, community radio provided radio access for the first time to thousands of historically marginalized citizens, providing special event information and news tailored for specific interest groups.

In March Radio Islam, the Muslim Community Radio Station, applied for and was granted a 12-month temporary license (see Section 2.c.).

In 2000 the SAHRC published the finding of its investigation into racism in the media. The investigation examined selected publications over a limited period, looking at the problem of subliminal racism and the disproportionate representation of whites in media ownership and newsroom staffing. The SAHRC report concluded that: "To the extent that expressions in the media reflect a persistent pattern of racist expressions and content of writing that could have been avoided, the media can be characterized as racist institutions." The report recommended workshops and conferences to sensitize journalists to the risk of racial prejudice in their reporting. The SAHRC reported ongoing interaction between itself and the media, and specifically SANEF. Two workshops were held early in the year in Durban and Cape Town with senior journalists on the issue of racism. Commissioners also met with individual members of the media, editorial staff, and representatives of the independent media group to discuss racism in the media. There was an ongoing debate on whether there is a need to share a single regulatory authority. The SANEF and the Freedom of Expression Institute (FXI) were less receptive to the SAHRC recommendation that a single regulatory authority be established for the media. Although the proposed authority would be funded and under the control of the media, SANEF and FXI assert that radio and television require different controls than newspapers. They are concerned that the Government's alleged attempts to silence expressions of dissent eventually could be codified into law.

The SAHRC remained opposed to legislating a single authority to establish international codes of conduct for the media.

There are several government agencies with media-related responsibilities. Under the South African Communications Regulatory Authority Bill passed in 2000, the Independent Broadcast Authority (IBA) and the South African Telecommunications Regulatory Authority (SATRA) were merged to form the Independent Communications Authority of South Africa (ICASA). Under the new regulations, ICASA has less independence from the Ministry of Telecommunications than previously was granted to the IBA. In September the Department of Telecommunications introduced a bill to Parliament that includes further limits to the power of ICASA and gives greater authority to the Minister of Telecommunications. This bill was the subject of a great deal of domestic and foreign media scrutiny and criticism. SANEF regarded it as a regressive step by the Government that could result in very little independence for the regulator of the broadcasting and telecommunications media. A proposed amendment, which would provide the Minister of Telecommunications with the authority to appoint and dismiss members of the board, was dismissed.

The Minister of Telecommunications has a direct role in the awarding of telecommunication-service licenses. This role came under scrutiny during the extended bidding process for the third cellular license in the country after unsuccessful bidders for the cellular license alleged that the regulator unfairly recommended one bidder for the contract; they sued to have the decision reviewed. The allocation of the third cellular license to the company Cell.c was finalized after the unsuccessful bidders reached an agreement with Cell.c and subsequently withdrew their case; Cell.c was operational by year's end.

The Foreign Publication Board, formerly the Government Board of Censors, reviews and passes judgment on written and graphic materials published in or imported into the country. The Board has the power to edit or ban books, magazines, movies, and videos, and it regularly exercises that power, mostly regarding pornographic material. The Government Communications and Information Service (GCIS) coordinates and facilitates communications with the citizenry through its Directorate for Media Diversity and Development.

Internet access is unrestricted for persons with the ability to pay for the service. The number of Internet users continued to expand quickly. All major newspapers maintain Internet sites, most of which are updated daily with the latest news and features. In July the Cabinet passed a bill that provides for state monitoring of telecommunications, including the Internet and e-mail (see Section 1.f.).

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects these rights in practice. However, on February 13, police fired rubber bullets, stun grenades, and tear gas at a group of approximately 100 persons who were protesting the removal of squatters illegally occupying land along Jukskei River in Alexandra Township after the protesters refused to disperse (see Section 1.f.); two persons were injured during the incident. In March police shot at and used tear gas to disperse striking postal workers who were attacking workers who were not on strike (see Section 6.a.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. The Bill of Rights prohibits the State from unfairly discriminating directly or indirectly against anyone on religious grounds, and it states that persons belonging to a religious community may not be denied the right, with other members of that community, to practice their religion and to form, join, and maintain religious associations. Cases of discrimination against a person on the grounds of religious freedom can be taken to the Constitutional Court.

Christianity is the dominant religion in the country, but no religion is declared the official state religion by law. The ruling party favors no particular religion.

On March 21, approximately 500,000 persons attended a gathering at Newlands Rugby Stadium in Cape Town that was organized by Christian groups and endorsed by 600 Christian leaders. The event promoted unifying the city and addressing unacceptable levels of crime, violence, poverty, bombings, gangsterism, and drug trafficking with celebration and prayer for divine intervention through the power of gospel. Education Minister Kader Asmal, who spoke at an ANC gathering in nearby Langa, criticized the gathering as sectarian, divisive, and non-inclusive. Asmal also claimed that a day of great importance, such as Human Rights Day, had been used by the organizers to promote a particular religious viewpoint, rather than the philosophy of the day. Religious leaders, opposition parties, and the media criticized Asmal's comments and accused him, and by extension the ANC, of not respecting the rights of freedom of association. Asmal apologized repeatedly for his comments, stated that he was in no way opposed to Christianity, and affirmed his commitment to religious freedom.

In February nine pupils were suspended from their high school for wearing dreadlocks. The students claimed that they subscribed to Rastafarianism as a religion, which they claimed requires that adherents grow their hair. The Department of Education allowed the children back into the school and stated that the Department would allow pupils wearing dreadlocks to attend school if they were members of the Rastafarian religion. The Department asked the school to launch an investigation to determine whether the children were Rastafarians in fact.

In 2000 a candidate attorney asked the Constitutional Court to rule that adult Rastafari should be exempted from the application of statutory provisions that make the possession and use of cannabis illegal and subject to a fine or imprisonment, because the use of cannabis is considered to be part of the practice of Rastafarianism. The candidate attorney was refused admission in 1997 as an attorney on the grounds of convictions for possession and use of cannabis, which is illegal. The Western Cape Director of Public Prosecution has opposed the candidate attorney's application, due to the link between cannabis and violent crime in that province. The case was heard on May 17, and the judgment was pending at year's end.

The Constitution states that religious instruction at public schools is permitted so long as it is voluntary and religions are treated equally. The current syllabus allows local boards to decide whether to include religious instruction in their schools. Many public schools have dropped religious instruction in practice. In schools that

do administer religious instruction, students have the right not to attend the religious instruction, and school authorities respect this right in practice. There are some private religious schools in which religious instruction is required.

During the 1998/1999 licensing season, the IBA's Broadcasting Monitoring Complaints Committee found the Muslim Community Radio Station, Radio Islam, guilty of violating its license conditions because, among other things, it refused to allow women to speak on the air. In March the station applied for and was granted a 12-month temporary license because of its compliance with license conditions. The station now has women on its board and also on the air.

Members of PAGAD complained that they were the targets of police brutality (see Sections 1.a. and 5); however, there was no indication that police targeted PAGAD members for investigation because of their religious affiliation. Some religious communities believe that the Government is too lenient in regards to PAGAD.

In late September, the offices of the Muslim Judicial Council in Cape Town were firebombed, causing superficial damage to the building's facade. Police believe the attack may have been a retaliatory act to September 11 terrorist attacks. No suspects were identified by year's end.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugees Act codifies the country's obligations under the U.N. Convention and its Protocol. The act's regulations, which delineate actual government procedures and responsibilities, became effective in 2000. The act stipulates that no person shall be expelled, extradited, or returned to any other country if he or she face persecution due to race, religion, or political affiliation, or when "his or her life, physical safety, or freedom would be threatened." The act also stipulates that designated refugees lose their status if they voluntarily return to their country of origin, take citizenship of another country, or if the circumstances that caused their flight from the country of origin change. However, the act stipulates that in order to renew their temporary residency permits, asylum seekers must return to the town in which they originally submitted their applications to be recognized as refugees. Permits that are lost, stolen, or destroyed are not renewed. If found without a valid permit, asylum seekers are subject to arrest, detention, and deportation.

The U.N. High Commission for Refugees (UNHCR) is assisting the Government in processing asylum applications. The regulations implementing the Refugees Act require the Department of Home Affairs to interview asylum seekers within 14 days of entry and to determine their status within 180 days of the interview; however, asylum applications are not processed efficiently by the Department of Home Affairs due to poor management and insufficient resources. There were interview delays of up to 3 months, followed by a 6-month adjudication period, and under new procedures, applicants are prohibited from working or attending school until asylum is granted. NGO's continued to encourage the Government to give equal access to health, education, and legal protection to foreigners. Human rights groups have criticized the Department of Home Affairs for not following the provisions of the act. New applicants for asylum and NGO's assisting refugees reported abuse and assaults by immigration authorities and requests for bribes to process applications for permits to remain in the country (see Section 1.c.). Human rights groups also reported asylum seekers being turned away at borders or repatriated immediately upon arrival at airports without benefit of a formal asylum procedure. In 2000 approximately 300 refugees demonstrated in front of the Department of Home Affairs to protest its refusal to process asylum applications for those refugees without passports. The U.N. High Commission for Refugees (UNHCR), the National Consortium on Refugee Affairs, and the SAHRC continued their "Roll Back Xenophobia" campaign to raise public awareness of the situation and rights of refugees and the difference between refugees and economic migrants. The campaign has produced publications, organized several public relations events, and has instituted a Police Training Initiative in cooperation with the SAPS to sensitize police officers on the need to protect refugees and in dealing with foreign nationals.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants applicants the right to work and study. The Department of Home Affairs reported that as of August, 65,798 persons had applied for asylum since 1994. Of this number, 58,721 applications had been finalized, including 19,106 granted asylum and refugee status, 35,268 refused, and others falling into various other categories such as applications withdrawn, cancelled, and manifestly unfounded applications; 7,077 were awaiting a decision at year's end. At year's end, there were 66,000 asylum seekers in the country; 18,500 were granted refugee status. The majority of recognized refugees came from Somalia, the Democratic Republic of the Congo (DRC), and Angola; there also were refugees from Rwanda,

Burundi, and the Republic of the Congo.

The majority of illegal immigrants come from Mozambique and Zimbabwe. Illegal immigrants are processed for deportation at a central facility, and sent back to Mozambique and Zimbabwe by weekly trains. Inadequate security on the trains allows many deportees to jump from the train en route, perpetuating the illegal immigration problem. Despite numerous procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the wrongful deportation of aliens who were legally in the country (see Section 1.c.). However, there were no reports of the forced return of persons to countries where they feared persecution.

There were credible reports of overcrowded, unhygienic detention facilities; beatings by security personnel in detention centers; and the theft of money and personal possessions from refugees by security personnel. In 2000 after a 2-year investigation, the SAHRC released a report assessing the conditions at the Lindela Repatriation Center, the largest detention facility for undocumented immigrants in the country. The report described abuses against detainees, which included long detentions, poor conditions, xenophobia, abuse and corruption by officials, and sexual abuse of women. In March the SAHRC met with representatives of the Department of Home Affairs to discuss the Commission's recommendations regarding Lindela. The Commission reported that the contractor subsequently made some improvements in the conditions at Lindela but that corruption and abuses by individual Home Affairs officials, including assaults of detainees and degrading treatment, were not addressed (see Section 1.d.).

Xenophobia led to a number of violent attacks on foreigners (see Section 1.c.). In October a number of Zimbabweans residing in an informal settlement on the outskirts of Johannesburg were attacked by a mob of South African residents from the same settlement after a South African reportedly was killed by one of the male Zimbabweans; 112 shacks were burned down and 126 were looted, and 11 of the Zimbabwean inhabitants were forced to flee the area. The attacks were criticized by the Government, the ruling political party, opposition parties, and the media. In the week following the attack, 14 persons were arrested in connection with the attack. On December 19, Zimbabweans who fled the settlement were allowed to return to the area after a peace agreement was negotiated; those who were in the country illegally were repatriated to Zimbabwe.

On September 23 in Pretoria, officers from the Pretoria SAPS dog unit reportedly used their dogs to attack and injure two Mozambican immigrants (see Section 1.c.).

In 2000 a video taped in 1998 was broadcast on national television showing six white police officers using dogs to beat and torture three black illegal immigrants (see Section 1.c.).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic free and fair elections held on the basis of universal suffrage. In June 1999, national elections were held that observers deemed to be free and fair. There was an improved level of overall tolerance during the campaigning and voting period compared with the 1994 elections, attributable to IFP-ANC talks, as well as an increased police presence. Complaints primarily concerned posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. In 2000 local government elections were held, which were generally peaceful. The elections were declared free and fair by the Independent Electoral Commission.

Under the terms of the Constitution, the country has a bicameral parliament, an executive state presidency, and an independent judiciary, including a constitutional court.

The two houses of Parliament are the National Assembly, with 400 members, and the National Council of Provinces (NCOP), consisting of 6 permanent and 4 rotating delegates from each of the 9 provinces. The NCOP, created to give a greater voice to provincial interests, is required to approve legislation that involves shared national and provincial competencies according to a schedule in the Constitution and to concur on other legislation. There is an 18-member Council of Traditional Leaders, which the Constitution accords an advisory role in matters of traditional law and authority.

Three parties, the ANC, the IFP, and the AZAPO shared executive power, although the ANC dominated the Government and gained in parliamentary strength in the 1999 elections. ANC members occupy 24 of the 27 ministerial positions. In 1999 the ANC leader, Thabo Mbeki, succeeded Nelson Mandela as President and Head of State. As a result of the 1999 national elections, the DP replaced the NNP as the official opposition in the National Assembly. In 2000 the DP and NNP, along with the FA, formed the DA; however, in October the

NNP threatened to leave the DA. The National Assembly also includes the UDM, the African Christian Democratic Party, the Pan-Africanist Congress, the United Christian Democratic Party, the Freedom Front, the Afrikaner Unity Movement, the AZAPO, and the Minority Front.

Traditional leaders expressed concern over the redrawing of municipal boundaries in anticipation of nationwide municipal elections in December 2000. These leaders traditionally have held all of their subjects' agricultural land in trust for their subjects and have controlled many aspects of social and cultural life in rural areas. They claimed that the new demarcations split and diminished their hereditary status and power bases. They also complained that new municipal structures and legislatures denied them voting rights in local councils, which control development funds for local communities. Although some chiefs advocated a boycott of the 2000 elections, most decided to participate based on an agreement with the Government to negotiate compromise legislation. Negotiations continued intermittently after the 2000 elections; however, the issue of the status of traditional leaders and their role in local government structures was not resolved by year's end. There were reports that leaders in some areas actively hindered government activities where they infringed upon areas under traditional rule. Traditional leaders also threatened to form their own political party to challenge the ANC at the polling stations in the 2004 national elections; however, this did not occur by year's end.

There were very few reports of violence or irregularities during the 2000 local elections; however, in the East Rand area of Johannesburg, there were reports that five persons were killed in two incidents of violence that may have been politically motivated (see Section 1.a.).

The percentage of women in government or politics does not correspond to their percentage in the population; however, there are no legal impediments to women's participation in Government. Of the 400 National Assembly members, 117 are women, while in the NCOP, 18 of the 54 permanent delegates are women. Women occupy three of four parliamentary presiding officer positions (speaker and deputy speaker of the National Assembly, and chair of the NCOP). Women hold 9 of 27 ministerial positions, as well as 6 of 13 deputy ministerial slots.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views. Many organizations participate in governmental bodies that seek to gather public input and to fashion policies related to human rights.

The government-created SAHRC is tasked with promoting the observance of fundamental human rights at all levels of Government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. Following the 2000 release of its report on the 1999 investigation into racism in the media, opposition parties again questioned the SAHRC's broad interpretation of its mandate and the impartiality of the Commission (see Section 2.a.). During the year, the SAHRC began an investigation into allegations of abuse of black farmworkers, local justice system prejudice against farmworkers, and violence against white farm owners (see Section 1.a.). The SAHRC report was not released by year's end. The SAHRC undertook a number of other activities during the year, including a national action plan and strategy to combat racism, the "Roll Back Xenophobia" campaign, a study of socio-economic rights, and an inquiry into sexual offenses against children (see Section 5).

The Office of the Public Protector investigates abuse and mismanagement by the Government, and acts as an office of last resort to which citizens report unfair treatment by government organizations. Such complaints generally take the form of concerns over lost pension checks or unfair hiring practices. The office handles an increasing number of complaints but is hampered by severe resource constraints.

The TRC was empowered by legislation to investigate apartheid-era gross human rights abuses committed between 1960 and 1994, to grant amnesty to perpetrators of a broad range of politically motivated crimes, and to recommend compensation for victims of human rights abuses. Due to the volume of work, the TRC's original 2-year mandate was extended to allow the continuation of amnesty hearings, and the TRC continued to operate freely throughout its sixth year. In its report, the TRC found that apartheid was a crime against humanity, that the former apartheid regime was responsible for most of the human rights abuses during the era of its rule, and that the ANC and other liberation movements also committed abuses during their armed struggle. The TRC was scheduled to dissolve in March 2002. The amnesty committee concluded its proceedings at the end of June, but a committee of the TRC was compiling the last two volumes of the TRC report to be added to the five earlier volumes (the initial report) at year's end. The final report was scheduled for submission to the President in March 2002.

By 1999 7,112 amnesty applications had been filed with the TRC; no new applications were accepted after 1997. Almost all amnesty applications were completed when the Amnesty Committee ended its activities in June, and only a few applications were finalized after June; by year's end, no applications were pending. An estimated 80 to 90 percent of all applications were from persons already incarcerated. A total of 1,146 applicants were granted amnesty. The amnesty applications of former Minister of Law and Order Adrian Vlok and former Civil Cooperation Bureau operative Ferdi Barnhard were denied during the year. In 1999 the TRC began amnesty hearings on 10 former members of the Umkhonto we Sizwe, the armed wing of the ANC, for their role in a series of 1986 bar bombings; 7 individuals were granted amnesty for those bombings during the year.

The TRC report called for a reconciliation summit to be scheduled in 1999, but had not received a formal response from the Government by year's end. The TRC also called for increased counseling services for victims of trauma, and consideration of a mechanism for restitution, such as a wealth tax. Victims' groups such as Khulumani called for the Government to set aside \$650 million (6 billion Rands) for reparation funding according to the TRC formulas. The Government did not approve the TRC's recommendations for an overall payment formula for reparations, which included monetary compensation as well as community support and legal and symbolic reparations, by year's end. The Government had not resolved any of these matters by year's end; however, the processing of emergency financial reparation applications from eligible victims continued, with approximately \$4.7 million (43 million Rands) paid by year's end. During the year, interim assistance continued to be given to persons considered to be in the greatest financial difficulty. The TRC officially expressed concern regarding delays in implementing reparation measures and doubt about the level of government support for reparation funding. Although the Government did not make a final decision on reparations for apartheid victims during the year, it committed \$86 million (800 million Rands) for reparation payments. Minister of Justice Penuell Maduna stated that the Government opposed the distribution of money to individuals, and instead favored compensation through the delivery of new housing, further development of infrastructure in areas formerly not served during the apartheid era, and delivery of land. The reparations committee completed its activities on November 30. Of the 20,563 reparation applications filed, 17,100 received interim reparations totaling \$7.06 (48.37 Rands).

The Human Rights Investigative Unit has authority to prosecute those persons who failed to ask for amnesty or to whom amnesty had been denied. All human rights abuses addressed by the TRC's amnesty committee are scrutinized by the unit, which has received approximately 11,000 amnesty applications. In October the TRC's amnesty committee submitted its final report; it is estimated that no more than 20 cases potentially could be prosecuted, which could take up to 5 years. The case against Dr. Basson is the first case pursued by this unit to go to trial (see Section 1.a.).

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the grounds of race, religion, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, or marital status. The Promotion of Equality and Prevention of Unfair Discrimination Act, which entered into force on August 9, outlaws unfair discrimination against any person on the grounds of gender, race, and disability, and places a responsibility on the State and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas. Legal recourse is available to those who believe that they have been discriminated against; however, entrenched attitudes and practices, as well as limited resources, limit the practical effect of these protections.

Women

There is an extremely high rate of domestic violence, including physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. Entrenched patriarchal attitudes towards women are a significant factor in underreporting. It is difficult for abused women's cases to be prosecuted effectively, and abused women often are treated poorly by doctors, police officers, and judges.

A study conducted in three provinces by the Medical Research Council (MRC), a statutory body, found that 27 percent of women in the Eastern Cape, 28 percent of women in Mpumalanga, and 19 percent of women in the Northern Province had been abused physically in their lifetimes by a current or ex-partner. In a 1999 study by the MRC of 1,394 men working for 3 Cape Town-area municipalities, approximately 44 percent admitted to abusing their female partners. In a MRC study of 1,800 working men in the Western Cape Province over a 10-year period, 22 percent reported forcing their wives or girlfriends to have sex.

The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law defines marital rape as a criminal offense and allows women to obtain

injunctions against abusive husbands in a simple, less expensive, and more effective manner. The law extends legal protection from domestic abuse to persons who are not in legal or common-law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years, or 20 years if additional criminal charges, including indecent assault, rape, incest, attempted murder, malicious damage to property, or pointing a firearm, are made.

The implementation of domestic violence legislation was hampered by societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials. Researchers at the University of Cape Town's Institute of Criminology reported that while many police and other judicial system officials are committed to complying with the law, it has not been implemented adequately. It is believed that the number of women who filed complaints represented only a fraction of those who suffered abuse. Statistics on prosecution and conviction of domestic abusers were not available at year's end. Domestic violence has been the subject of extensive media coverage, much of which has been focused on the need to improve implementation of domestic violence legislation and to impose longer sentences on convicted abusers. At year's end, the parliamentary monitoring committee on women's affairs was completing consultations with NGO's and local and national government officials regarding defects in the domestic violence laws, preparing a report for the relevant ministries on how the legislation could be modified to ensure more effective implementation, and focusing on efforts to ensure that the budget oversight process included greater emphasis on the effects of government programs on women. The report was completed but the committee had not considered it by year's end.

The Government finances 25 shelters for abused women. This number is inadequate, particularly in the rural areas. The SAPS operates 12 Family Violence, Child Protection, and Sexual Offenses (FCS) Units, which deal specifically with these issues and which are intended, in part, to increase victims' confidence in the police, thereby leading to increased reporting of such crimes. Six training courses for FCS Investigating Officers are held annually, and there are numerous additional workshops and seminars for other members of the police force, including gender sensitivity training. The Government conducts domestic violence awareness campaigns and counseling services in partnership with the Network of Violence Against Women, an NGO consortium.

Rape, including spousal rape, is illegal. There is an extremely high incidence of rape for reasons including a poor general security climate and societal attitudes condoning sexual violence against women. In the large majority of rape cases, the perpetrator goes unpunished.

The SAPS reported that between January and March, there were 144.2 rapes reported per day or 29.5 rapes per 100,000 persons. According to a 2000 report by Statistics South Africa, a governmental body, 2.7 percent of women between the ages of 16 and 25 years who were interviewed in a 1998 survey said they had been raped in the previous 5 years, as compared with 1.8 percent of women between 26 and 45 years old. In 2000 approximately 52,860 rapes were reported; however, according to a 1998 SAPS survey cited in the Statistics South Africa report, only half of all respondents who were raped reported the incident to the police. Of the cases reported, 47.6 percent were referred to court after an investigation. Of the cases that went to court, 45.6 percent were withdrawn in court, and an additional 4.5 percent settled out of court; 19.8 percent of the cases that went to court resulted in the conviction of the accused. The Rape Crisis Organization of South Africa reported that only 8.9 percent of reported rapes resulted in a conviction.

Rape, sexual assault, and sexual harassment of black female farmworkers by farm owners, managers, and by other farmworkers was common.

The Office on the Status of the Women, located in the Presidency, reported in the 2000 National Policy Framework for Women's Empowerment and Gender Equality that "there are few support structures for victims of rape. At police stations, rape victims face a lack of facilities coupled with the unsympathetic treatment women frequently receive from both the police and the justice system." Although judges in rape cases generally follow statutory sentencing guidelines, judges occasionally are criticized by women's advocacy groups for using questionable criteria, such as the victim's behavior or relationship to the rapist, as a basis for imposing lighter sentences.

The Government has established 22 sexual offense courts throughout the country. In 2000 the Government launched a pilot project in two communities aimed at providing holistic care for rape victims. The Government also has designated waiting rooms for victims, established counseling, installed more than 2,000 intermediary facilities at courts, and provided training of judicial officers.

The issue of rape was covered widely in the media during the year, although NGO's working with rape victims reported a decrease in attention from 2000. There were a number of demonstrations against rape; one followed the murder of a young girl by gang members who previously had raped her and threatened to kill her

if she reported the crime. In July students at a girls' high school in Cape Town organized a demonstration in which thousands of students joined hands to form a solidarity chain for a young girl who had been raped.

Female immigrants and asylum seekers were abused sexually during detention. The Lindela Repatriation Center has no special facilities for women, and although male and female detainees resided in separate sections of the Center, they often used common facilities (see Section 2.d.).

In August the Constitutional Court ruled that a woman could be awarded damages on the basis that the Government failed to protect her security.

Female genital mutilation (FGM), which is condemned widely by international health experts as damaging to both physical and psychological health, still is practiced in some areas of the Eastern Cape and KwaZulu-Natal, although it is not considered to be widespread. The law specifically prohibits FGM as unfair discrimination.

Prostitution is illegal, but it is widespread and practiced fairly openly. There have been incidents of harassment by policemen demanding sexual favors of prostitutes under threat of penalizing them for lewd conduct or public loitering. There is no law that specifically prohibits sex tourism, although it is covered under the general prohibition against prostitution. The Government is not involved in sex tourism. There were reports that women are trafficked into the country for prostitution (see Section 6.f.). In August the Pretoria High Court ruled that sections that prohibited prostitution in the Sexual Offences Act were unconstitutional.

Although no official statistics are available, there is anecdotal evidence that sexual harassment is a widespread problem. An attorney from the Women's Legal Center, an NGO, estimated in July that 76 percent of women had experienced some form of sexual harassment; 40 percent of these women had left their jobs or changed jobs as a result of the harassment. Perpetrators of sexual harassment can be prosecuted under a number of laws; however, there have been few successful prosecutions. The Government and legal bodies have acted to redress historic racial and gender imbalances in the judiciary and the bar. The ranks of judges, magistrates, senior counsels, and attorneys are more reflective of society than in the past, although they still fall far short of a representative composition. The National Economic Development and Labor Council (NEDLAC), a government body, produced a code of good practices designed to eliminate sexual harassment in the workplace; however, no specific action was taken to implement the code.

Discrimination against women remains a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system.

Polygamy continues to be practiced by several ethnic groups. Exacting a bride price ("lobola") also is a traditional practice of some ethnic groups. The Recognition of Customary Marriages Act recognizes customary marriages, both monogamous and polygamous, but it does not address religious marriages, which are not recognized by the law. The law was introduced in 1998 but not implemented by year's end.

The law prohibits gender discrimination on the following grounds: Gender-based violence; FGM; preventing women from inheriting family property; practices which impair the dignity and equality of women; policies that unfairly limit access to land rights or other resources; discrimination based on pregnancy; limiting access to social services and benefits; and denial of access to opportunities. The act also provides for the establishment of equality courts with specific jurisdiction to hear complaints under the act; however, they were not established by year's end (see Section 1.e.).

In practice women experience economic discrimination in areas such as wages, extension of credit, and access to land.

Women, especially black women, typically have lower incomes and less job security than men. Most women are engaged in poorly paid domestic labor and micro-enterprises, which do not provide job security or benefits. The Office of the Status of Women reported in 2000 that "although gender discrimination has been removed from labor laws, this has not been sufficient to achieve equality in women's participation in the paid labor force."

According to data supplied in 2000 by employers with 50 or more employees, women hold 13 percent of all top management positions, 20 percent of all senior management positions, and 43 percent of professional and middle management positions. This last figure is high because of the disproportionate representation of women within the nursing and teaching professions, which are included in those categories. Approximately 17 percent of women who work are domestic laborers; the majority of these workers are black women with little or

no education. Domestic workers usually do not have contracts with their employers and have little recourse for unfair treatment or abuse. Female farmworkers often experienced discrimination. Female farmworkers' access to housing often is dependent on their relationship to male farmworkers. Women generally occupy the less well-paid farming jobs or receive lower wages than men who perform the same type of work. Many female farmworkers are denied maternity leave in violation of the law or are allowed only the minimum time to give birth and return to work.

Discrimination against women in the workplace is prohibited under the law, which includes both anti-discrimination and affirmative action provisions. The law also protects persons who have insecure and informal rights and interests in land; many women are in this category. However, the National Policy Framework for Women's Empowerment and Gender Equality reported that some land ownership and tenure practices continue to discriminate against women. For example, township housing transfer schemes favor existing title holders, who tend to be men, and women in rural areas find it hard to obtain security of tenure, which is a precondition for accessing housing subsidies.

Elderly women, many of whom are primary caregivers for their grandchildren, benefit from legislation under which women qualify for the national old age pension at 60 years of age (men qualify at 65 years of age). In 2000 the Department of Trade and Industry began a program to provide incentive grants to promote the development of small and medium businesses and microenterprises for women, and for young persons and persons with disabilities in the areas of manufacturing, tourism, arts and crafts, and imports and exports. Recent studies have shown a connection between women and the likelihood of poverty. A women's NGO reported that female-headed households have a 50 percent higher incidence of poverty than male-headed households; that a high proportion of working women live in poor households; and that 61 percent of the elderly poor are women.

The law provides procedures for child support payments and improves the ability of caregivers, most of whom are women, to collect maintenance payments from noncustodial parents; however, the Government had not implemented a section of the law mandating the appointment of maintenance investigators to track down missing noncustodial parents by year's end.

A number of governmental and nongovernmental organizations monitor and promote women's human rights. The Office on the Status of Women, located in the Office of the Deputy President, coordinates departmental gender desks, which develop strategies to ensure integration of gender concerns into governmental policy and planning. In 2000 the Office of the Status of Women published a detailed study, the National Policy Framework for Women's Empowerment and Gender Equality, which outlined the Government's plan for achieving gender equality. The Commission on Gender Equality (CGE), a constitutionally mandated body, is authorized to investigate allegations of gender discrimination and make recommendations to Parliament on any legislation affecting women; however, the CGE was hampered by a lack of funding during the year. Parliament's Joint Committee on Improvement of Quality of Life and Status of Women is mandated to monitor the effects of government programs and policies on women. During the year, the committee devoted special attention to monitoring gender equity in the government budget process.

There are numerous active women's rights groups that focus on such areas as violence against women and the economic advancement of women. Some of these groups have been successful in affecting government policy. For example, the Gender Monitoring and Advocacy Group, an NGO consortium that includes a domestic workers' organization, successfully lobbied for an amendment to proposed unemployment insurance legislation that originally did not cover domestic workers, who are primarily women. The Government subsequently decided in principle that domestic workers should be covered under the act; however, the legislation had not been amended by year's end.

Children

The Constitution stipulates that children have the right "to security, education, basic nutrition, and basic health and social services." The Government remains committed to providing these services and has made some progress toward developing the mechanisms for delivering them, including improvements in the provision of education and a campaign against child abuse. However, the demand for such services far exceeds the resources available. The Government has found it particularly difficult to provide for the rapidly growing number of children who are affected by HIV/AIDS, including both infected children and AIDS orphans.

The law provides greater educational opportunities for disadvantaged children--traditionally black children--through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the Department of Education, approximately 90 percent of 7 to 15-year-olds and 83 percent of 16 to 19-year-olds are enrolled in school. According to UNICEF figures updated in 2000, 88 percent

of grade school age boys and 86 percent of grade school age girls attended primary school. The Office of the Status of Women reported in the 2000 National Policy Framework for Women's Empowerment and Gender Equality that in 1999, 50.6 percent of all students in public and independent schools were girls, and women comprised 55 percent of all university students and 46 percent of all technicon (technical college) students. However, the report noted that a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes, contributed to high drop-out rates and lower secondary school pass rates for girls.

The school funding formula, based on norms and standards tied to physical resources and performance, devotes 60 percent of nonpersonnel resources toward the 40 percent most needy schools. Each of the nine provincial departments of education has responsibility for the schools in their provinces, which has resulted in the uneven distribution of educational facilities. The disparity has affected the areas of Eastern Cape, the Northern Province, and KwaZulu-Natal most severely. The availability and quality of primary schooling still is a problem, especially in rural areas where schools may not be easily accessible or children may have to work (see Section 6.d.). To address this problem, the Government continued to build new schools, introduce basic skills development and prevocational training into the curriculum, and in some cases, develop plans to provide food for disadvantaged children.

Student populations on university campuses are becoming more representative of the general population, with the most prestigious government-administered universities, some of which used to be all-white, making an active effort to recruit students from other communities. The enrollment of black students had risen to 41 percent in 1999 at the nation's top five universities.

There are a number of governmental social welfare programs for children, known as "Presidential Initiatives," including free health care for pregnant women and children under 6 years of age and school meal programs for primary school children. In practice it is sometimes difficult for persons in rural areas to obtain access to health care facilities and other social welfare programs. NGO's have called for reforms of social security programs, including programs targeted at children, particularly in response to the increasing number of HIV/AIDS orphans. The Government was criticized widely by HIV/AIDS activists for failing to protect adequately young children from HIV/AIDS transmission through the provision of antiretroviral medication to pregnant and breast-feeding women. The Cabinet continued to withhold approval for programs to reduce the rate of mother-to-child transmission of HIV/AIDS during the year; however, the director of AIDS programs allowed provincial governments to implement the programs without cabinet approval. During the year, an activist group called Treatment Action Campaign sued the Government in court for failing to provide drugs which reduce mother-to-child transmission of HIV/AIDS. In December a Pretoria High Court judge ordered that the drug Nevirapine be provided to HIV-positive pregnant women in state hospitals. The Government appealed the order, and the appeal was pending at year's end.

In December 1999, a Cape Town High Court heard a case brought by residents of a squatter camp petitioning for government-provided housing. The court ruled that the children in squatter camps have a constitutional right to housing and, thus, are entitled to state-provided shelter. The court also ruled that the children have a constitutional right to family and therefore, have the right to be accompanied by their family members in the state-provided shelter. The Constitutional Court, the country's highest court, held hearings on the case in May 2000, and ruled that the Government had failed to carry out its obligation to provide housing, but did not rule specifically on the constitutional rights of children to housing.

Violence against children, including domestic violence, remains widespread. Domestic violence against children is prohibited under the law, which also compels medical, educational, and other practitioners working with children to report abuse immediately. While the Government, the public, and the media have paid increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continues to impede the delivery of needed services to young victims. In July a senior police officer reported to a parliamentary committee that there was a significant increase in reports of child abuse. Although corporal punishment in schools is prohibited by law, there are reports that teachers use physical violence to discipline their students. In addition there continued to be high levels of racially-motivated violence among students in schools.

Reports of child rape have increased significantly, as have reports that men are committing rape due to a growing myth that having sexual intercourse with a virgin can cure HIV/AIDS. Between January 2000 and June, the police reported 31,780 cases of rape and attempted rape of children; however, observers believe that these figures represent a small percentage of the actual incidents of child rape, because most cases involve family members and are not reported. The country has a low conviction rate for rape and child abuse. There was a reported 2.6 percent conviction rate in cases of child abuse in Johannesburg. The minimum sentence for rape of a child is life in prison, but judges have the discretion to grant more lenient sentences. Courts reportedly convicted approximately 70 persons for rape and similar offenses and sentenced them to life sentences during the year. In November a 9-month-old girl was raped in Cape Town; six men were arrested for

the crime. The incident followed a series of recent rapes of baby girls. On November 26, thousands of men demonstrated against the rapes as part of a 16-day awareness campaign.

In March Human Rights Watch released a report entitled "Scared at School: Sexual Violence Against Girls in South African Schools" that documented widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. According to the report, girls "are confronted with levels of sexual violence and sexual harassment in schools that impede their access to education on equal terms with male students." The report stated that the Government was working to improve its responses to domestic and sexual violence, but recommended "a more proactive, coordinated, and system-wide response." There was no reported action by year's end. The law requires schools to disclose sexual abuse to the authorities; however, administrators often disregarded the obligation by concealing sexual violence or delaying disciplinary action. The report further noted that "sexual violence and harassment in South African schools erect a discriminatory barrier for young women and girls seeking an education."

A 2000 survey documented that 39 percent of sexually active teenage girls reported being raped. According to Human Rights Watch, girls who experience sexual violence often leave school temporarily, change schools, or quit attending school to escape continuing abuse; those who remain in school have difficulty completing their studies. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually-transmitted diseases, as well as unwanted pregnancies.

The Government has introduced initiatives to address school violence; however, it does not have a national policy to address sexual violence and harassment in schools. Human Rights Watch reported an absence of standard procedural guidelines governing how schools should treat persons accused of sexual violence or harassment.

Virginity testing on young girls and traditional male circumcision still are prevalent in various parts of the country. Virginity testing is a violation of the law and exposes women to a potentially higher risk of being raped because of the virginity myth. Human Rights Watch reported that virginity tests were conducted at some schools in KwaZulu-Natal during the year. Traditional circumcision rituals still are practiced on teenage boys in rural areas of the Eastern Cape and KwaZulu-Natal and resulted in the hospitalization, mutilation, or death of several boys and young men. The provincial department of health reported at least 18 deaths, 5 mutilations, and 42 hospitalizations during the summer initiation season that began in September 2000. In December 2000, provincial health authorities began to regulate the practice by requiring the presence of trained medical personnel during the rituals. The Eastern Cape Provincial Government introduced legislation to regulate traditional male circumcision and improve health standards during the ritual; however, it was not implemented by year's end.

FGM still is performed on young girls in some rural areas of the Eastern Cape and KwaZulu-Natal (see Section 5, Women).

Child prostitution increased, primarily in Cape Town, Durban, and Johannesburg. A 2000 report by the NGO Molo Songololo estimated that there are 28,000 child prostitutes in the country. The child sex industry increasingly has become organized, with children either forced into prostitution by gangs or exploited by their parents to earn money for the family (see Sections 6.c., 6.d., and 6.f.). The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and allowing a female under 16 to stay in a brothel for the purpose of prostitution. The 33 SAPS Child Protection Units lack the capacity to deal adequately with the problem of child prostitution.

Legislation regulates limited pretrial detention of juvenile offenders accused of serious crimes. The law states that any child under the age of 14 must be released within 24 hours into the custody of a parent or guardian when possible. In 2000 juveniles awaiting trial were transferred to secure care centers after it was discovered that they were being held with adult prisoners and receiving insufficient medical attention at Pollsmoor prison near Cape Town. Immigrant children detained in the Lindela Repatriation Centre received the same general treatment as adult detainees, were not provided with separate sleeping facilities from adults, and were not always provided with food and clothing by the facility (see Sections 1.c. and 2.d.).

There were reports that children were trafficked for prostitution and forced labor (see Section 1.f.).

Child labor, including forced child labor, is a problem.

Persons with Disabilities

The Constitution prohibits discrimination on the basis of disability. Society is increasingly open to the concept

of persons with disabilities as a minority whose civil rights must be protected. The Government attempts to ensure that all government-funded projects take account of the needs of citizens with disabilities. However, in practice Government and private sector discrimination against persons with disabilities in employment still exists. The law mandates access to buildings for persons with disabilities, but such regulations rarely are enforced, and public awareness of them remains minimal. The law requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. The National Environmental Accessibility Program, an NGO comprising consumers with disabilities as well as service providers, has established a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary. In August the Public Service Commission reported to a parliamentary committee that persons with disabilities constitute only 0.02 percent of the public service workforce.

Indigenous People

The Constitution provides for the recognition of "the institution, status, and role of traditional leadership," and requires the courts to "apply customary law when that is applicable, subject to the Constitution and any legislation that specifically deals with customary law."

The Constitution further permits legislation for the establishment of provincial houses of traditional leaders and a National Council of Traditional Leaders to deal with matters relating to traditional leadership, indigenous and customary law, and the customs of communities that observe a system of customary law. Six provinces have established houses of traditional leaders. The National Council of Traditional Leaders is mandated to advise the Government on matters related to traditional authorities and customary law. Traditional leaders and government representatives met several times during the year to discuss the relative roles of traditional leaders and municipal structures with the aim of drafting a legislative amendment setting out these roles. However, they failed to reach an agreement by year's end.

During the year, members of the Khoisan group argued for legal protection of their culture and language, particularly recognition in the Constitution and for their languages to be taught in schools. There was no additional information available at year's end.

Religious Minorities

Relations between the various religious communities generally are amicable. However, there is a concern about the perceived growing influence of a politicized and radicalized brand of Islam. Reports of violence perpetrated by PAGAD have fueled these concerns.

PAGAD portrays itself as a community organization opposed to crime, gangsterism, and drugs; however, it is known for its violent vigilantism (see Section 1.a.). PAGAD is a multifaith movement, although its orientation is Islamic and the vast majority of its members are Muslim. PAGAD is most active in the Western Cape but also has branches elsewhere in the country. Surveys indicated that approximately two-thirds of Muslims supported PAGAD soon after its inception, but that figure has dropped significantly since. The vast majority of Muslims no longer support PAGAD. While PAGAD continues to lose support when it is linked to violent acts, it gains sympathy when high-profile incidents occur that are perceived by the Muslim community to have been acts of discrimination against Muslims.

The Muslim community has protested the infrequent availability of bail and staged periodic small-scale protests, criticizing the treatment as unfair compared with the judicial treatment of non-Muslims (see Sections 1.a. and 2.c.).

There were occasional reports of killings linked to the continued practice of witchcraft in some rural areas (see Sections 1.a. and 1.f.). In the Northern Province, where traditional beliefs regarding witchcraft remain strong, officials reported dozens of killings of persons suspected of witchcraft. The Government has instituted educational programs to prevent such actions. On September 18, four women and one man were sentenced to life imprisonment for the murder of a 74-year old man whom they accused of witchcraft.

In late September, the offices of the Muslim Judicial Council in Cape Town were firebombed, causing superficial damage to the building's facade. Police believe the attack may have been a retaliatory act to September 11 terrorist attacks. No suspects were identified by year's end.

In December 1998, a synagogue in Wynberg was bombed; in September three suspects were acquitted (see Section 1.a.).

National/Racial/Ethnic Minorities

The Constitution and Bill of Rights prohibit discrimination on the basis of race, ethnic or social origin, or culture. The Government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally. The law prohibits discrimination on 19 grounds and requires employers with 50 or more employees to ensure that previously disadvantaged groups--defined as blacks, women, and persons with disabilities--are adequately represented at all levels of the workforce. However, these previously disadvantaged groups remained underrepresented in the workforce, particularly at the professional and managerial levels. A comprehensive analysis of workforce profiles submitted to the Department of Labor by 8,250 employers in 2000 showed that blacks hold 13 percent of top management positions and 98 percent of unskilled positions. The employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action. The armed forces have struggled with the process of integrating blacks into the predominantly white officer corps (see Section 1.a.).

Xenophobia led to a number of violent attacks on foreigners (see Sections 1.c. and 2.d.). Foreigners faced harsh reactions from antiimmigrant groups such as the Unemployed Masses of South Africa, which criticized immigrants for job losses.

The continued killings of mostly white farm owners by black assailants created concern among white farmers that they were being targeted for racial and political reasons (see Section 1.a.). There also were reports that white employers abused and killed black farm laborers, but avoided penalty due to collusion with the authorities (see Section 1.a.).

The World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance was held in Durban from August 31 to September 7.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for freedom of association and the right to strike, and these rights are given statutory effect in the Labor Relations Act (LRA). All workers in the private sector are entitled to join a union. Workers in the public sector, with the exception of members of the National Intelligence Agency and the Secret Service, also are entitled to join a union. Members of the National Defense Force are allowed to join a union, but they are prohibited from striking. Union membership in the private sector has continued to decline steadily in recent years as a result of job layoffs and declining formal sector employment, including in industries that have been heavily unionized, such as mining and manufacturing. However, some public sector unions have experienced growth. Total union membership is approximately 3.3 million persons, which constitutes nearly 31 percent of the economically active population.

The largest trade union federation, COSATU, is aligned formally with the ANC and the South African Communist Party (SACP). Several ANC members of Parliament and of the Cabinet have a COSATU leadership background, and the premier of Gauteng, the country's richest province, is a former COSATU general secretary. COSATU's largest rival, the Federation of Unions of South Africa (FEDUSA), is a nonpartisan labor federation. A relatively minor labor federation, the National Council of Trade Unions (NACTU), is independent of any political grouping. Some unions do not belong to any federation.

The LRA is designed to create an industrial relations regime that is stable and recognizes that basic worker rights need to be protected. The act, which applies to both the public and private sectors, protects workers against unfair dismissal, recognizes their right to form trade unions, provides for the right to strike, and establishes a simple set of procedures that protect striking workers from the threat of dismissal. Essentially, for a strike to proceed, all that is required is that a dispute be referred for conciliation. There is no time limit on conciliation efforts; however, if conciliation fails to resolve the dispute, or lasts more than 30 days, a trade union is entitled to advise an employer of intent to strike so long as it gives 48-hours notice to a private sector employer or 7-days notice to a state employer. Organized labor also has the right to engage in "socioeconomic protest," whereby workers can demonstrate, without fear of losing their jobs, in furtherance of broader social objectives. The LRA also allows employers to hire replacement labor for striking employees, but only after giving 7 days' notice to the striking trade union. Employers have the right to lock out workers if certain conditions are met. Public sector employees, with the exception of essential services and the three components of the security services, also have the right to strike. Strikes by workers in essential services, such as police and hospital workers, are prohibited. If disputes between workers in essential services and their employers cannot be resolved through collective bargaining or conciliation, they are referred to arbitration.

On August 29 and 30, COSATU held a 2-day nationwide general strike to protest the privatization of state-owned enterprises and of municipal services. In December 2000 and January, security guards went on strike for 3 weeks over wages. During the strike, there were incidents of intimidation and threats of violence by striking workers against nonstriking and replacement guards. In January the strike ended after trade unions and employers signed an agreement. On March 5 in Johannesburg, during a 2-week strike by postal workers, police shot at a crowd of post office workers who attacked non-striking workers and injured one person. In Pretoria on the same day, police fired tear gas and injured one person after striking workers attempted to lock the gates to the airport's post office (see Section 6.a.). Other significant strikes resulted from wage disputes including: A 3-week strike of automobile workers in August; a 3-week strike of rubber and tire workers in August and September; and a 1-week strike by dock workers in Durban in December. Strikes were shorter and less disruptive than in previous years.

On March 7, the Labor Court overturned a ruling of the Commission of Conciliation, Mediation and Arbitration (CCMA) that would have required Volkswagen South Africa to reinstate 1,3000 workers that it fired for illegally striking in 2000.

The Government does not restrict union affiliation with regional or international labor organizations. COSATU, FEDUSA, and NACTU are affiliated with the International Confederation of Free Trade Unions (ICFTU).

b. The Right to Organize and Bargain Collectively

The law defines and protects the rights to organize and bargain collectively. The Government does not interfere with union organizing and generally has not interfered in the collective bargaining process. The LRA statutorily provides for "organizational rights," such as trade union access to work sites, deductions for trade union dues, and leave for trade union officials, which strengthens the ability of trade unions to organize workers.

Union participation as an equal partner with business and Government in the National Economic Development and Labor Council, a tripartite negotiating forum, ensures a direct voice for labor in the formulation of economic, social, and labor policy.

The LRA allows for the establishment of workplace forums that are intended to promote broad-based consultation between management and labor over issues such as work organization, corporate downsizing, and changes in production processes. The forums, in order to receive statutory protection, can be established by trade unions only in businesses with more than 100 employees. Although trade unions in only a few factories reportedly have established workplace forums, the intent of the law is to build wide support within the trade union movement and business for such cooperative workplace relationships.

Although labor laws protected farm workers, the COSATU-affiliated South African Agricultural, Plantation and Allied Workers, Union (SAAPAWU), and the NACTU-affiliated National Union of Farmworkers have encountered difficulties trying to organize farm workers, because union organizers are considered trespassers on private property. In addition farmworkers or farm residents who attempted to organize were harassed and evicted. The Ministry of Labor reported that 4.5 percent of the agricultural labor force is unionized. In 2000 the Department of Labor conducted a survey on the prevailing conditions in the agricultural sector, which was ongoing at year's end.

To further reduce the adversarial nature of labor relations, the LRA also created a Commission for Conciliation, Mediation, and Arbitration (CCMA). The CCMA has resolved successfully many disputes referred to it and remains critical to the emergence of a less confrontational business climate. The CCMA also gradually is beginning to play an interventionist role by becoming involved in disputes before they deteriorate into full-fledged strikes or lockouts. A labor court and a labor appeals court are other important creations of the LRA. The labor court has jurisdiction to resolve disputes that the CCMA is unable to mediate to the satisfaction of both parties. Notwithstanding the existence of the CCMA and specialist courts for labor disputes, the aim of industrial relations is to minimize the need for judicial intervention in labor relations, leaving it to the contending parties to resolve disputes whenever possible. No employee may be fired or discriminated against because of membership in or advocacy of a trade union.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor; however, there were reports that smugglers used the country as a transit and destination point for trafficking in persons for prostitution and forced labor (see Section

6.f.).

The Constitution prohibits forced and bonded child labor; however, there were reports that children were trafficked, forced into prostitution, or exploited by their parents to earn money for their families (see Sections 5 and 6.f.). A 1999 survey conducted by Statistics South Africa reported that up to 2,000 children work to pay off outstanding debts to employers or obligations to their landlords (see Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of a child under 15 years of age. It is a criminal offense to employ a child between 15 and 18 years of age if such employment "places at risk the child's well-being, education, physical or mental health, or spiritual, moral, or social development." This policy is enforced effectively in the formal nonagricultural sector and less effectively in other sectors by Department of Labor inspectors, who are required to ensure that all of their inspections address child labor problems. The inspectors attempt to resolve any problems by counseling employers, child workers, and parents, and by cooperating with the Departments of Welfare and Education. The violation of the laws regulating child employment is a criminal offense, punishable by a maximum prison sentence of 3 years. However, criminal prosecution is reserved for "extreme circumstances," and there were no prosecutions by year's end.

Many children, especially in the rural areas of the former "homelands" where electricity and running water are rare, are expected to help with household chores and school maintenance. According to a survey conducted by Statistics South Africa in 1999, 45 percent of children between the ages of 5 and 17 worked for 1 hour or more per week in an economic activity, 5 hours or more per week in school labor, or 7 hours or more in household chores. The most common economic activity for children was gathering wood and water for domestic use, which occupied 4.5 million of the 13.4 million children between the ages of 5 and 17 years for 1 hour or more per week. Of the 2 million children who spent at least 1 hour per week in activities for pay, profit, or family economic gain, 59 percent were involved in agriculture and 33 percent in trade. A survey noted that of the 13.4 million children between the ages of 5 and 17, 17.8 percent were engaged in subsistence farming, 5.3 percent in trade, 1.4 percent in commercial agriculture, 0.8 percent in services, 0.4 percent in manufacturing, 0.1 percent in transport, 0.1 percent in informal finance, and 0.05 percent in construction and mining.

Child laborers from Zimbabwe and Mozambique work in the country on commercial farms, for the taxi industry, or as domestic servants.

Child prostitution is a growing problem in metropolitan areas (see Section 5). NGO's estimate that there are 10,000 children working as prostitutes in Johannesburg and at least 1,000 in Cape Town. Along trucking routes child prostitutes are sought after because of the belief that they are more likely to be disease-free or that, if they are virgins, sex with them cures diseases such as HIV/AIDS (see Section 5). The Government previously had established a task force to develop a plan of action to combat the sexual exploitation of children, and has created training courses for the police force and the judiciary regarding the problem.

The Government has stated that it is committed to abolishing child labor through new legislation and improving the enforcement of current child labor laws. The Government has prepared training manuals and conducted a number of courses on enforcing child labor laws. The Child Labor Inter-sectoral Group (CLIG) is composed of representatives of trade unions, employers, organizations, NGO's, and officials of the Departments of Labor, Welfare, and Education. The CLIG debates policy options and ensures coordination of initiatives between these different groups.

Following the Government's ratification of International Labor Organization (ILO) Convention 182 on the Worst Forms of Child Labor in 2000, the Department of Labor began provincial consultations in order to develop and complete a comprehensive program of action to implement the convention. However, no further action was taken by year's end.

The Constitution prohibits children under the age of 18 from participating in armed conflict. The minimum age for military recruitment is 17 years.

The Constitution prohibits forced or bonded labor; however, there were reports that children were trafficked, forced into prostitution, and that some children work in conditions that amount to bondage (see Sections 5, 6.c., and 6.f.).

e. Acceptable Conditions of Work

There is no legally mandated national minimum wage. Unionized workers in the formal sector of the economy

set wage rates on an industry-by-industry or plant-by-plant basis through annual negotiations with employers or employer organizations. Such wages generally are sufficient to provide a decent standard of living for a worker and family. In those sectors in which workers are not organized sufficiently to engage in the collective bargaining process, the law gives the Minister of Labor the authority to set wages, including for farm laborers and domestic workers. However, income disparities between skilled and unskilled workers and the income distribution gap between rural and urban workers mean that many unskilled or rural workers are unable to provide a decent standard of living for themselves and their families.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the act concerning overtime and leave.

Occupational health and safety issues are a top priority of trade unions, especially in the mining and heavy manufacturing industries. Although attention to these issues has increased significantly, the country's industrial and mining processes are dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. Moreover, a tripartite mine health and safety council and an inspectorate of mine health and safety, are tasked with enforcing the act and monitoring compliance with its provisions. The law specifically makes it an offense for a company to discriminate against an employee who asserts a right granted by the law (for example, to leave a hazardous work site) and requires mine owners to file annual reports that provide statistics on health and safety incidents for each mine being worked. On May 8, 12 persons were killed by an explosion in a gold mine.

Working conditions on farms were generally poor. There were many incidents of physical abuse of farm workers, non-payment of wages, and other forms of arbitrary treatment (see Section 1.c.). In September the Department of Labor published a report on employment conditions in the agricultural sector which found that "most South African farm workers live in circumstances of absolute and relative poverty" and recommended minimum farm wages ranging from \$40 to \$75 (400 Rands to 750 Rands), depending on the farm's location. Many farmers do not measure accurately working hours, and they often require their laborers to work 11 hours per day and 6 days per week. In addition 12 hour days were common during harvest time, and few farmers provided overtime benefits. Human Rights Watch reported low wages and the absence of basic services in farmworkers' housing. There were reports that farmers ignored laws relating to health and safety and other labor rights for their workers. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

There are no laws or regulations in other industries that permit workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law protects employees from retaliation who, with "reasonable belief that the health or safety of an individual has been, is being, or is likely to be endangered," disclose dangerous workplace conditions to the appropriate authorities.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, the country is a transit and destination point for the trafficking of persons from other countries in Africa, Asia, Eastern Europe, and the former Soviet Union for prostitution and forced labor. Women and children are trafficked into the country by domestic and international organized crime syndicates for the sex industry.

The extent of trafficking operations is not known; however, it has been estimated that an average of 1,000 women are trafficked across the country's borders every month. Molo Songololo, an NGO in Cape Town, conducted a 2000 study of 44 women working in the sex industry in the country and found that women who are trafficked to the country are 18 to 25 years of age with limited English skills, limited job opportunities, and dependent families. Of the 44 women surveyed, 10 of the women were trafficked from Thailand, Eastern Europe, and the former Soviet Union; the remaining women were South African, and 4 of them were trafficked.

Women and children are lured by traffickers with the promise of jobs and decent wages, and then forced to work as prostitutes, in some cases to pay off debts to those who smuggled them into the country. While many women come willingly, some claim that they were tricked into coming, or that they were forced to continue working as prostitutes until they had paid off the cost of their transport. The Eastern European syndicates contact women through acquaintances of friends and offer employment opportunities in the South African hospitality industry, usually offering to pay airfare and obtain travel documents; the women usually enter the country with a holiday visa or claim political asylum. The women generally travel alone; upon arrival they are met by an agent at the airport and taken to a house in the Gauging province, Eastern or Western Cape, or Kwazulu Natal. Trafficked women usually are threatened if they do not comply, and their documents are confiscated.

In Asia employment agencies, female agents, and newspaper advertisements are used in recruiting women with promises of employment in hospitality, catering, teaching, and service industries. These agencies create "books" with the photographs and personal information on the women, which are circulated among prospective buyers who are either agents or brothels and escort service owners. The women are "ordered" and brought to South Africa, where they reside in the same house and are monitored closely. The women usually are debt-bonded to the agent who recruited them and are required to make a profit for both their trafficker and employer.

In Africa women are trafficked from neighboring countries including Angola, Zimbabwe, Lesotho, Swaziland, Zambia, Cameroon, Malawi, and Rwanda. Namibia and Botswana reportedly are transit countries. The trafficking operations are run by Nigerian, Angolan, and Congolese networks; South African also are involved in trafficking syndicates. The method of recruiting in Africa reportedly is with promises of employment in the hospitality industry, and women are transported via roads into the country; the trafficked victims are indebted to the recruiting organizations.

The country also is a transit point for trafficking operations between developing countries and Europe, the United States, and Canada. Migrants from foreign countries, particularly China, India, the Middle East, Eastern European countries, and other African countries, are lured to the country with accounts or promises of money and jobs in the West. Once in the country they are provided with documentation and accommodation before being moved on to final destinations, where they are forced into prostitution, drug dealing, or other criminal activity until they pay off the debt of their travel expenses. Traffickers apparently have identified the country as one in which temporary entry permission often is granted, fraudulent documents are easy to obtain, and direct flight and shipping routes are available to most countries in the developed world.

There are four major criminal syndicates in the country that traffic women: The Chinese Mafia from Asia and operating in Swaziland; Bulgarian syndicates from Eastern Europe; the Russian Mafia; and African criminal groups, mainly from Angola, Nigeria, and the DRC. The African syndicates appear to be the managers and owners of specific establishments within the sex industry. Individual criminals from South Africa and neighboring countries also engage in trafficking. It is reported that women from Eastern Europe are trafficked by a well-organized syndicate that is run by ex-military personnel of senior rank.

Trafficked women who work in the sex industry live with other trafficked victims in segregated areas; are under constant surveillance; have no money or identifying documents; are indebted to the agents who arranged their travel; work up to 18 hours each day; work double shifts, on weekends, and when ill; are fined for infractions of strict rules; and have little communication with other workers.

The country does not have legislation that specifically prohibits the trafficking of persons; however, there are other laws that can be applied to prosecute offenses related to trafficking, including laws dealing with illegal aliens, employment, occupational health and safety, sexual offenses, domestic violence, and organized crime. Various entities of the Government investigate trafficking cases on an ad hoc basis. The Government made efforts to address the trafficking problem with investigations and arrests by the police. These efforts are hampered by police corruption, lack of training, and understaffing. In 2000 police discovered prostitutes from Thailand, Bulgaria, Russia, the Czech Republic, Romania, and Zambia at a brothel in Johannesburg, closed the establishment, arrested the owner, and seized his assets. Some of the women were returned to their home countries, and the criminal case against the owner and various civil cases were pending at year's end. On July 31, the Pretoria High Court ordered the brothel to be closed. The courts generally deal with trafficking through deportations and fines, rather than exacting criminal penalties.

Trafficking is not a focus for the Government, and few government resources have been allocated to combat trafficking. There is no plan or program in place to assist trafficking victims. There has not been any specialized training for dealing with trafficking victims. However, during the year, the border police included protection of women and children from trafficking in its strategic plan.

There were no reported government anti-trafficking public awareness campaigns or other programs to prevent trafficking. The NGO Molo Songololo is the only NGO that has worked with the Government to address trafficking, and the cooperation has been limited to interviews with government officials for the Molo Songololo study on trafficking. Molo Songololo has raised some awareness with the publication of its study and through programs in Western Cape schools.